



W A V E R L E Y
C O U N C I L

COUNCIL MEETING

A meeting of WAVERLEY COUNCIL will be held at Waverley Council Chambers,
Cnr Paul Street and Bondi Road, Bondi Junction at:

7.00 PM, TUESDAY 12 DECEMBER 2023

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

Emily Scott
General Manager

Waverley Council
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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 Meetings

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 following 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 Mayor 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/Leaves of Absence

Cr Tim Murray has requested a leave of absence from this meeting.

2. Declarations of Pecuniary and Non-Pecuniary Interests

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4. Addresses by Members of the Public

5. Confirmation and Adoption of Minutes

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CM/6.1/23.12 CONFIDENTIAL MAYORAL MINUTE - General Manager's Annual Performance Review

See CM/11.3/23.12 below.

7. Reports

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Electrical Works98

CM/7.6/23.12 Clifftop Walk – Diamond Bay Lookout

At the time of issuing the agenda, the Clifftop Walk – Diamond Bay Lookout report was not available. It will be issued to Councillors under separate cover prior to the meeting.

8. Notices of Motions

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9. Questions with Notice

There are no questions with notice.

10. Urgent Business..... 116

11. Closed Session 117

The following matters are proposed to be dealt with in closed session and have been distributed to Councillors separately with the agenda:

| | |
|---------------|---|
| CM/11.1/23.12 | CONFIDENTIAL REPORT - Bronte Surf Club and Community Facilities Building Upgrade - Updated Heads of Agreement |
| CM/11.2/23.12 | CONFIDENTIAL REPORT - Tender Evaluation - Waverley Council Chambers Refurbishment |
| CM/11.3/23.12 | CONFIDENTIAL MAYORAL MINUTE - General Manager's Annual Performance Review |

At the time of issuing the agenda, this Mayoral Minute was not available. It will be issued to Councillors under separate confidential cover prior to the meeting.

12. Resuming in Open Session 119

13. Meeting Closure

OBITUARIES CM/3/23.12

Subject: Obituaries
Author: Emily Scott, General Manager



The Mayor will ask Councillors for any obituaries.

Council will rise for a minute's silence for the souls of people generally who have died in our Local Government Area.

CONFIRMATION AND ADOPTION OF MINUTES CM/5.1/23.12



Subject: Confirmation of Minutes - Council Meeting - 21 November 2023

TRIM No: SF23/16

Manager: Richard Coelho, Executive Manager, Governance

RECOMMENDATION:

That the minutes of the Council meeting held on 21 November 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 Council meetings must be confirmed at a subsequent meeting of Council, in accordance with section 375 of the *Local Government Act 1993*.

Attachments

1. Council Meeting Minutes - 21 November 2023 .



**MINUTES OF THE WAVERLEY COUNCIL MEETING
HELD AT WAVERLEY COUNCIL CHAMBERS, CNR PAUL STREET AND BONDI ROAD, BONDI JUNCTION ON
TUESDAY, 21 NOVEMBER 2023**

Present:

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

Staff in attendance:

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

At the commencement of proceedings at 7.00 pm, those present were as listed above, with the exception of Crs Goltsman who arrived at 7.03 pm during obituaries, Crs Burrill and Lewis who arrived at 7.32 pm and 8.06 pm respectively during addresses by members of the public and Cr Keenan who arrived at 8.15 pm during items by exception.

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

At 9.23 pm, during the consideration of item CM/8.5/23.11, Cr Lewis left the meeting and did not return.

At 9.38 pm, following the vote on item CM/5.2/23.11, the meeting adjourned for a short break.

At 9.47 pm, the meeting resumed.

PRAYER AND ACKNOWLEDGEMENT OF INDIGENOUS HERITAGE

The General Manager read the following 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 Mayor 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/Leaves of Absence

There were no apologies.

2. Declarations of Pecuniary and Non-Pecuniary Interests

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

3. Obituaries

Martin Lipschitz

Council rose for a minute's silence for the souls of people generally who have died in our local government area.

4. Addresses by Members of the Public

- 4.1 M Teicher – CM/5.3/23.11 – Adoption of Minutes – Traffic Committee Meeting – 26 October 2023 – TC/C.01/23.10 – Bourke Street, Queens Park – Upgrade.
- 4.2 T Beuk – CM/8.1/23.11 – Clifftop Walk – Diamond Bay Lookout.
- 4.3 L Beuk – CM/8.1/23.11 – Clifftop Walk – Diamond Bay Lookout.
- 4.4 E Doyle – CM/8.1/23.11 – Clifftop Walk – Diamond Bay Lookout.
- 4.5 T Hanna – CM/8.1/23.11 – Clifftop Walk – Diamond Bay Lookout.
- 4.6 A resident – CM/8.1/23.11 – Clifftop Walk – Diamond Bay Lookout.
- 4.7 H Younan – CM/8.1/23.11 – Clifftop Walk – Diamond Bay Lookout.

- 4.8 B Moir – CM/8.1/23.11 – Clifftop Walk – Diamond Bay Lookout.
- 4.9 A resident – CM/8.1/23.11 – Clifftop Walk - Diamond Bay Lookout.
- 4.10 M Teicher – CM/8.3/23.11 – E-Bikes.
- 4.11 T Clee – CM/8.5/23.11 – Bondi Junction Entertainment Precinct.
- 4.12 K Yamamoto – CM/8.6/23.11 – Continuous Pedestrian Paths of Travel – Accessibility Solutions.
- 4.13 D Mitchell – CM/11.1/23.11 – Confidential Report – Pedestrian Laneway between Dickson Lane and Belgrave Street, Bronte.
- 4.14 V Mitchell – CM/11.1/23.11 – Confidential Report – Pedestrian Laneway between Dickson Lane and Belgrave Street, Bronte.
- 4.15 A Pouloukefalos – CM/11.1/23.11 – Confidential Report – Pedestrian Laneway between Dickson Lane and Belgrave Street, Bronte
- 4.16 B Kidd (on behalf of Flickerfest Pty Ltd) – CM/11.5/23/11 – Confidential Report – Flickerfest 2024 – Financial Assistance.

ITEMS BY EXCEPTION

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos
Seconder: Cr Murray

That the recommendations for the following items be adopted as recommended in the business paper:

- CM/5.1/23.11 Confirmation of Minutes – Council Meeting – 17 October 2023
- CM/7.1/23.11 Annual Report 2022-23.
- CM/7.4/23.11 Investment Portfolio Report – October 2023.
- CM/7.5/23.11 Annual Code of Conduct Complaints Statistics.
- CM/7.6/23.11 Schedule of Meeting Dates for Council and Council Committees 2024.
- CM/7.7/23.11 Audit, Risk and Improvement Committee Meeting – Minutes – 27 July 2023.
- CM/8.2/23.11 Cardiac Surgery at Sydney Children's Hospital, Randwick.
- CM/8.4/23.11 Bulga Road and Military Road, Dover Heights – Verge Maintenance.
- CM/11.2/23.11 Confidential Report – Commercial Waste – Fees and Charges 2024.
- CM/11.3/23.11 Confidential Report – Shops 2 and 3, 276 Bronte Road, Waverley – Lease.

5. Confirmation and Adoption of Minutes**CM/5.1/23.11 Confirmation of Minutes - Council Meeting - 17 October 2023 (SF23/16)****MOTION / UNANIMOUS DECISION**

Mover: Cr Masselos

Seconder: Cr Fabiano

That the minutes of the Council meeting held on 17 October 2023 be received and noted, and that such minutes be confirmed as a true record of the proceedings of that meeting.

CM/5.2/23.11 Confirmation of Minutes - Extraordinary Council Meeting - 26 October 2023 (SF23/16)**MOTION / DECISION**

Mover: Cr Masselos

Seconder: Cr Kay

That the minutes of the extraordinary Council meeting held on 26 October 2023 be received and noted, and that such minutes be confirmed as a true record of the proceedings of that meeting.

Division

For the Motion: Crs Betts, Burrill, Goltsman, Gray, Kay, Keenan, Lewis, Masselos, Murray and Nemesh.

Against the Motion: Crs Fabiano and Wy Kanak.

CM/5.3/23.11 Adoption of Minutes - Waverley Traffic Committee Meeting - 26 October 2023 (SF23/19)**MOTION / UNANIMOUS DECISION**

Mover: Cr Masselos

Seconder: Cr Kay

That Part 1 of the minutes of the Waverley Traffic Committee meeting held on 26 October 2023 be received and noted, and that the recommendations contained therein be adopted.

Save and except the following:

1. TC/C.01/23.10 – Bourke Street, Queens Park – Upgrade.

And that this item be dealt with separately below.

M Teicher addressed the meeting.

**CM/5.3.1/23.11 Adoption of Minutes - Traffic Committee Meeting - 26 October 2023 -
TC/C.01/23.10 - Bourke Street, Queens Park - Upgrade (A03/2514-04)**

This item was saved and excepted by Cr Kay.

MOTION / UNANIMOUS DECISION

Mover: Cr Kay
Seconder: Cr Betts

That Council adopts the Traffic Committee's recommendation subject to an amendment to clause 3 such that that the recommendation now reads as follows:

That Council:

1. Upgrades Bourke Street, Queens Park, as per Option 1 of the report, including the installation of a separated uphill bike path, in accordance with the design attached to the report (Attachment 1).
2. Delegates authority to the Executive Manager, Infrastructure Services, to modify the design should on-site circumstances warrant changes.
3. Undertakes a community education program regarding bike lanes and bike use generally in Waverley, with Council receiving a report on the matter prior to the program commencing.

6. Mayoral Minutes

There were no mayoral minutes.

7. Reports

CM/7.1/23.11 Annual Report 2022-23 (A21/0035)

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos
Seconder: Cr Murray

That Council notes the Annual Report 2022–23 attached to the report.

CM/7.2/23.11 Quarterly Budget Review (Q1) - September 2023 (SF23/1717)

MOTION

Mover: Cr Masselos
Seconder: Cr Keenan

That Council:

1. Notes that the Executive Manager, Finance, as the responsible accounting officer, advises that the projected financial position of Council is satisfactory.
2. Adopts the variations to the 2023–24 Operating and Capital budgets in accordance with the attachments to the report.

AMENDMENT 1

Mover: Cr Kay

Seconded: Cr Betts

That clause 2 be amended to read as follows:

‘Adopts the variations to the 2023–24 Operating and Capital budgets in accordance with the attachments to the report, subject to the following amendment:

- (a) An increase of \$360,000 for the ~~in~~ Waverley Park Playground and Fitness Station Upgrade to \$2.86 million, with the increase funded from section 7.12 contributions, to deliver the intergenerational fitness and BBQ areas. This comprises bringing forward \$290,000 currently allocated in the Long Term Financial Plan (LTFP) in 2024–25 plus a projected increase of \$70,000 due to escalation costs.’

THE AMENDMENT WAS PUT AND DECLARED LOST.

Division

For the Amendment: Crs Betts, Burrill, Goltsman, Kay and Nemesh.

Against the Amendment: Crs Fabiano, Gray, Keenan, Masselos, Murray and Wy Kanak.

AMENDMENT 2 (RULED OUT OF ORDER)

Mover: Cr Betts

That the following clause 3 be added to the motion:

‘Aligns the names of the reserve funding in the Long Term Financial Plan and all budget papers.’

THE AMENDMENT WAS RULED OUT OF ORDER ON THE GROUNDS THAT IT DID NOT RELATE TO THE Q1 BUDGET REPORT.

THE MOTION WAS THEN PUT AND DECLARED CARRIED.

DECISION

That Council:

1. Notes that the Executive Manager, Finance, as the responsible accounting officer, advises that the projected financial position of Council is satisfactory.
2. Adopts the variations to the 2023–24 Operating and Capital budgets in accordance with the attachments to the report.

Division

For the Motion: Crs Fabiano, Gray, Keenan, Masselos, Murray and Wy Kanak.

Against the Motion: Crs Betts, Burrill, Goltsman, Kay and Nemesh.

Cr Lewis was not present for the vote on this item.

CM/7.3/23.11 Audited Financial Statements 2022-23 (A23/0026)

MOTION / DECISION

Mover: Cr Murray

Seconded: Cr Keenan

That Council:

1. In accordance with section 419 of the *Local Government Act 1993*, notes the auditor's report on the 2022–23 Financial Statements (including General and Special Purpose Financial Statements and Special Schedules) included in the attachment to the report.
2. Refers any public submissions on the 2022–23 Financial Statements (including General and Special Purpose Financial Statements and Special Schedules) to the auditor.
3. Notes the presentation to Council of the audited 2022–23 Financial Statements (including General and Special Purpose Financial Statements and Special Schedules) attached to the report.

Cr Lewis was not present for the vote on this item.

CM/7.4/23.11 Investment Portfolio Report - October 2023 (SF23/4025)

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos
Seconder: Cr Murray

That Council:

1. Notes the Investment Summary Report for October 2023 attached to the report.
2. Notes that the Executive Manager, Finance, as the responsible accounting officer, advises that all investments have been made in accordance with the requirements of section 625 of the *Local Government Act 1993* and directions from the Minister for Local Government, including Ministerial Investment Orders, and Council's Investment Policy

CM/7.5/23.11 Annual Code of Conduct Complaints Statistics (SF17/2821)

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos
Seconder: Cr Murray

That Council notes the statistics on code of conduct complaints about Councillors and the General Manager for 2022–23 attached to the report.

CM/7.6/23.11 Schedule of Meeting Dates for Council and Council Committees 2024 (A04/1869)

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos
Seconder: Cr Murray

That Council adopts the schedule of meeting dates for Council and Council Committees for 2024 attached to the report.

CM/7.7/23.11 Audit, Risk and Improvement Committee Meeting - Minutes - 27 July 2023 (SF23/1014)

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos

Seconder: Cr Murray

That Council notes the minutes of the Audit, Risk and Improvement Committee meeting held on 27 July 2023 attached to the report.

CM/7.8/23.11 Sydney Eastern City Planning Panel - Council Membership (A16/0688)

MOTION

Mover: Cr Masselos

Seconder: Cr Keenan

That Council:

1. Appoints the following representative to the Sydney Eastern City Planning Panel up to 30 July 2026:
 - (a) Peter Brennan.
2. Officers prepare a report to Council outlining a new expression of interest process for the selection of two community (non-technical) representatives, including new selection criteria and weightings.

AMENDMENT

Mover: Cr Goltsman

Seconder: Cr Betts

That clause 1 be amended to read as follows:

‘Appoints the following representatives to the Sydney Eastern City Planning Panel up to 30 July 2026:

- (a) Peter Brennan.
- (b) Greg Woodhams.
- (c) Peter Monks.

THE AMENDMENT WAS PUT AND DECLARED LOST.

Division

For the Amendment: Crs Betts, Burrill, Goltsman, Kay and Nemesh.

Against the Amendment: Crs Fabiano, Gray, Keenan, Masselos, Murray and Wy Kanak.

THE MOTION WAS THEN PUT AND DECLARED LOST.

Division

For the Motion: Crs Fabiano, Gray, Masselos, Murray and Keenan

Against the Motion: Crs Betts, Burrill, Goltsman, Kay, Nemesh and Wy Kanak.

Cr Lewis was not present for the vote on this item.

CM/7.9/23.11 Planning Agreement - 122-128 Hewlett Street, Bronte (DA-304/2022/A)

MOTION

Mover: Cr Murray

Seconder: Cr Gray

That Council:

1. Publicly exhibits the planning agreement attached to the report applying to land at 122–128 Hewlett Street, Bronte, offering a total monetary contribution of \$498,940, with 100% to be allocated to the Charing Cross Streetscape Upgrade.
2. Officers prepare a report to Council following the exhibition period.

AMENDMENT

Mover: Cr Kay
Seconder: Cr Betts

That clause 1 be amended to read as follows:

‘Publicly exhibits the planning agreement attached to the report applying to land at 122–128 Hewlett Street, Bronte, offering a total monetary contribution of \$498,940, with \$360,000 (72%) to be allocated to Stage 3 of the Waverley Park and Playground Upgrade and the remainder be allocated to the Charing Cross Streetscape Upgrade.’

THE AMENDMENT WAS PUT AND DECLARED LOST

Division

For the Amendment: Crs Betts, Burrill, Goltsman, Kay and Nemesh.

Against the Amendment: Crs Fabiano, Gray, Keenan, Masselos, Murray and Wy Kanak.

THE MOTION WAS THEN PUT AND DECLARED LOST.

Division

For the Motion Crs Burrill, Gray, Fabiano, Masselos and Murray.

Against the Motion: Crs Betts, Goltsman, Kay, Keenan, Nemesh and Wy Kanak.

Cr Lewis was not present for the vote on this item.

CM/7.10/23.11 Clifftop Walk - Diamond Bay Lookout (A20/0387)

MOTION

Mover: Cr Nemesh
Seconder: Cr Masselos

That Council:

1. Amends the approved development application (DA) for the Clifftop Walk at Diamond Bay for the following reasons:
 - (a) A site survey with reduced levels was not obtained or provided as part of the public exhibition for the DA.
 - (b) The privacy and amenity impact of the viewing platform on the residents of 33 Kimberley Street, Vacluse, as a result of the substantial increase in elevation of the new lookout platform compared to the pre-existing boardwalk.
2. Considers lowering the boardwalk level in drawings:

- (a) SK.04 to SK.05 by 1 metre and up to 1.5 metres.
 - (b) SK.05 to SK.06 by 1 metre and up to 1.5 metres.
 - (c) SK.06 to SK.07 by 1 metre and up to 1.5 metres.
- 3. Considers reducing the size of the viewing platform as a result of reducing the elevation of the platform, or removing the viewing platform.
- 4. Funds the estimated costs associated with lowering the lookout of \$500,000 from the SAMP Infrastructure Reserve.
- 5. Immediately obtains a quantity surveyor report to verify the actual costs of these modifications.
- 6. Communicates this resolution to the residents of 33 Kimberley Street, as well as the Diamond Bay Precinct.
- 7. Officers prepare a report to the Finance, Operations and Community services committee on 5 December 2023 outlining:
 - (a) The cost implications of the modifications.
 - (b) Any scheduling issues to complete the project.
 - (c) Visual impact assessment.
 - (d) A planning review to better understand the planning implications of these changes and specifically to assess if the visual impacts are reasonable.

THE MOVER OF THE MOTION ACCEPTED AMENDMENTS TO CLAUSES 2, 3 AND 7 SUCH THAT THE MOTION NOW READS AS FOLLOWS:

That Council:

- 1. Amends the approved development application (DA) for the Clifftop Walk at Diamond Bay for the following reasons:
 - (a) A site survey with reduced levels was not obtained or provided as part of the public exhibition for the DA.
 - (b) The privacy and amenity impact of the viewing platform on the residents of 33 Kimberley Street, Vacluse, as a result of the substantial increase in elevation of the new lookout platform compared to the pre-existing boardwalk.
- 2. Lowers the boardwalk level in drawings:
 - (a) SK.04 to SK.05 by 1 metre and up to 1.5 metres.
 - (b) SK.05 to SK.06 by 1 metre and up to 1.5 metres.
 - (c) SK.06 to SK.07 by 1 metre and up to 1.5 metres.
- 3. Removes the viewing platform.

4. Funds the estimated costs associated with lowering the lookout of \$500,000 from the SAMP Infrastructure Reserve.
5. Immediately obtains a quantity surveyor report to verify the actual costs of these modifications.
6. Communicates this resolution to the residents of 33 Kimberley Street, as well as the Diamond Bay Precinct.
7. Officers prepare a report to the Finance, Operations and Community services committee on 5 December 2023, if possible, outlining:
 - (a) The cost implications of the modifications.
 - (b) Any scheduling issues to complete the project.
 - (c) Visual impact assessment.
 - (d) A planning review to better understand the planning implications of these changes and specifically to assess if the visual impacts are reasonable.

AMENDMENT

Mover: Cr Murray
Seconder: Cr Fabiano

That clauses 5, 6 and 7 be deleted.

THE AMENDMENT WAS PUT AND DECLARED LOST.

Division

For the Amendment: Crs Fabiano, Murray and Wy Kanak.

Against the Amendment: Crs Betts, Burrill, Goltsman, Gray, Kay, Keenan, Lewis, Masselos and Nemesh.

THE MOVER OF THE MOTION THEN ACCEPTED AN AMENDMENT TO CLAUSE 1.

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

UNANIMOUS DECISION

That Council:

1. Amends the approved development application (DA) design for the Clifftop Walk at Diamond Bay for the following reasons:
 - (a) A site survey with reduced levels was not obtained or provided as part of the public exhibition for the DA.
 - (b) The privacy and amenity impact of the viewing platform on the residents of 33 Kimberley Street, Vacluse, as a result of the substantial increase in elevation of the new lookout platform compared to the pre-existing boardwalk.
2. Lowers the boardwalk level in drawings:
 - (a) SK.04 to SK.05 by 1 metre and up to 1.5 metres.
 - (b) SK.05 to SK.06 by 1 metre and up to 1.5 metres.

(c) SK.06 to SK.07 by 1 metre and up to 1.5 metres.

3. Removes the viewing platform.
4. Funds the estimated costs associated with lowering the lookout of \$500,000 from the SAMP Infrastructure Reserve.
5. Immediately obtains a quantity surveyor report to verify the actual costs of these modifications.
6. Communicates this resolution to the residents of 33 Kimberley Street, as well as the Diamond Bay Precinct.
7. Officers prepare a report to the Finance, Operations and Community services committee on 5 December 2023, if possible, outlining:
 - (a) The cost implications of the modifications.
 - (b) Any scheduling issues to complete the project.
 - (c) Visual impact assessment.
 - (d) A planning review to better understand the planning implications of these changes and specifically to assess if the visual impacts are reasonable.

8. Notices of Motions

CM/8.1/23.11 Clifftop Walk - Diamond Bay Lookout (A20/0387)

MOTION (WITHDRAWN)

That Council:

1. Notes the concerns of residents in relation to the proposed height of a viewing platform as part of the Diamond Bay coastal boardwalk upgrades.
2. Further notes the privacy and amenity impacts of the coastal boardwalk viewing platform on the residents of 33 Kimberley Street, Vacluse.
3. Investigates options to lower the height of the current proposed viewing platform to a more suitable height, specifically reverting the height to the previous height level of the former boardwalk.
4. Offices prepare a report to the December Council meeting (if not sooner) with proposed options, including costs to vary or amend the current plans and reduce the height of the viewing platform.
5. Communicates this resolution to the residents of 33 Kimberley Street Vacluse, as well as the Diamond Bay Precinct.

T Beuk, L Beuk, E Doyle, T Hanna, H Younan, B Moir and two residents addressed the meeting.

CM/8.2/23.11 Cardiac Surgery at Sydney Children's Hospital, Randwick (A18/0716)**MOTION / UNANIMOUS DECISION**

Mover: Cr Masselos

Seconder: Cr Murray

That Council:

1. Notes:
 - (a) The decision by the Minister for Health, Ryan Park, to end cardiac bypass surgery at Sydney Children's Hospital, Randwick.
 - (b) The concerns by the Nurses and Midwives Association and Medical Staff Council at Sydney Children's Hospital that children's lives will be put at risk, and the likely knock-on effects on other departments in the hospital, potentially forcing children and their families to receive care at the Children's Hospital at Westmead.
 - (c) That this could have a direct impact for the children living in the Waverley local government area, and especially if they become critically unwell.
 - (d) The support for the retention of these services from Coogee MP and former Waverley Councillor Marjorie O'Neill prior to the 2023 NSW elections.
2. Affirms its support for the retention of paediatric cardiac surgery at Sydney Children's Hospital, Randwick.
3. Writes to the NSW Premier, the Hon Chris Minns MP, and the NSW Minister for Health and Medical Research, the Hon Ryan Park MP, requesting that the NSW State Government restore and maintain an appropriately funded paediatric cardiac surgical program, including cardiac bypass surgery, at Sydney Children's Hospital, Randwick.
4. Requests the Minister for Health to meet with the Mayor and General Manager in relation to this matter.
5. Promotes the online petition noted in the background to this resolution through its media channels, including Facebook and Instagram, Council's website and weekly email bulletin.

CM/8.3/23.11 E-Bikes (A17/0445)**MOTION**

Mover: Cr Masselos

Seconder: Cr Murray

That Council:

1. Notes that:
 - (a) There are three electric bike hire companies operating in the Waverley local government area (LGA).
 - (b) There appears to be an increase in the number of e-bikes across the Waverley LGA.

- (c) Operators often place their e-bikes on narrow pavements, impeding access by pedestrians, prams and wheelchairs.
 - (d) Share bike customers leave bikes in inappropriate and dangerous locations.
 - (e) Operators do not appear to be collecting e-bikes in potentially dangerous locations quickly enough.
 - (f) There is an increase in the number of complaints received from residents about e-bikes being carelessly parked on footpaths, nature strips and parking spaces creating obstacles that impede pedestrian egress.
2. Officers liaise with e-bike operators to negotiate:
- (a) More considerate and appropriate locations for the placement of their e-bikes.
 - (b) Faster collection of used bikes.
3. Officers investigate relevant legislation that may assist Council in removing offending e-bikes that are creating a hazard.
4. Officers prepare a report to Council outlining outcomes of any negotiations and legislative options.

THE MOVER OF THE MOTION ACCEPTED AMENDMENTS TO CLAUSES 1(c) AND 3 AND THE ADDITION OF A NEW CLAUSE 5.

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

UNANIMOUS DECISION

That Council:

1. Notes that:
- (a) There are three electric bike hire companies operating in the Waverley local government area (LGA).
 - (b) There appears to be an increase in the number of e-bikes across the Waverley LGA.
 - (c) Operators and users often place their e-bikes on narrow pavements, impeding access by pedestrians, prams and wheelchairs.
 - (d) Share bike customers leave bikes in inappropriate and dangerous locations.
 - (e) Operators do not appear to be collecting e-bikes in potentially dangerous locations quickly enough.
 - (f) There is an increase in the number of complaints received from residents about e-bikes being carelessly parked on footpaths, nature strips and parking spaces creating obstacles that impede pedestrian egress.
2. Officers liaise with e-bike operators to negotiate:
- (a) More considerate and appropriate locations for the placement of their e-bikes.

- (b) Faster collection of used bikes.
- 3. Officers investigate relevant legislation and gaps in the legislation that may assist Council in removing offending e-bikes that are creating a hazard or littering the public domain.
- 4. Officers prepare a report to Council outlining outcomes of any negotiations and legislative options.
- 5. Refers this resolution to Council's Access and Inclusion Advisory Panel.

Cr Lewis was not present for the vote on this item.

M Teicher addressed the meeting.

CM/8.4/23.11 Bulga Road and Military Road, Dover Heights - Verge Maintenance (A14/0144)

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos

Seconder: Cr Murray

That Council:

- 1. Notes the recent maintenance and weed removal of lantana at the verge of Military and Bulga Roads, Dover Heights, which has considerably improved pre-existing views of residents in the immediate vicinity.
- 2. Investigates the removal of the acacia trees planted within the verge and its replacement of more suitable vegetation, which could include native grasses.
- 3. Officers prepare a report to Council in February 2024 with options undertake these works.
- 4. Informs the Dover Heights Precinct of this resolution.

CM/8.5/23.11 Bondi Junction Entertainment Precinct (A16/0262)

MOTION

Mover: Cr Betts

Seconder: Cr Burrill

That Council:

- 1. Notes that Bondi Junction is a key commercial, social and cultural location in the heart of the Waverley local government area.
- 2. Investigates the steps required to create an Entertainment Precinct in Bondi Junction to improve the vibrancy of the Bondi Junction commercial centre, including but not limited to:
 - (a) How existing planning instruments, including the *Waverley Local Environmental Plan* (WLEP) and *Waverley Development Control Plan* (WDCP), would need to be varied to address relevant matters, including outdoor dining hours in the current WDCP, existing footpath seating licences, introduction of controls and compliance for maximum noise levels for any amplified sound.

- (b) Resources, timing and funding required to develop a draft planning proposal to amend the WLEP, noting that this may be the first key step to introduce an Entertainment Precinct in Bondi Junction.
 - (c) Preparing a draft Plan of Management for the Entertainment Precinct.
 - (d) Any requirements for a specific Waverley Special Entertainment Precinct to facilitate the creation of an Entertainment Precinct.
 - (e) The scope of any community consultation process.
2. Convenes a Councillor briefing early in 2024 to discuss the benefits and risks for an entertainment precinct/zone in Bondi Junction, how an Entertainment Precinct could be introduced, how it could operate, what could be its potential boundaries, and what would a community consultation strategy look like.
3. Receives a report by no later than April 2024.

THE MOVER OF THE MOTION ACCEPTED AMENDMENTS TO CLAUSE 1(a) SUCH THAT IT NOW READS AS FOLLOWS:

‘How existing planning instruments, including the *Waverley Local Environmental Plan (WLEP)*, *Waverley Development Control Plan (WDCP)*, *Bondi Junction Evening, Culture and Entertainment Strategy* and *Economic Development Strategy* would need to be varied to address relevant matters, including outdoor dining hours in the current WDCP, existing footpath seating licences, introduction of controls and compliance for maximum noise levels for any amplified sound and appropriate lighting.’

AMENDMENT (LAPSED)

Mover: Cr Wy Kanak

That the following clause 4 be added to the motion:

‘Refers this resolution to all Waverley Precincts after the Councillor briefing.’

THE MOTION AS AMENDED WAS THEN PUT AND DECLARED CARRIED.

DECISION

That Council:

1. Notes that Bondi Junction is a key commercial, social and cultural location in the heart of the Waverley local government area.
2. Investigates the steps required to create an Entertainment Precinct in Bondi Junction to improve the vibrancy of the Bondi Junction commercial centre, including but not limited to:
 - (a) How existing planning instruments, including the *Waverley Local Environmental Plan (WLEP)*, *Waverley Development Control Plan (WDCP)*, *Bondi Junction Evening, Culture and Entertainment Strategy* and *Economic Development Strategy* would need to be varied to address relevant matters, including outdoor dining hours in the current WDCP, existing footpath seating licences, introduction of controls and compliance for maximum noise levels for any amplified sound and appropriate lighting.
 - (b) Resources, timing and funding required to develop a draft planning proposal to amend the

WLEP, noting that this may be the first key step to introduce an Entertainment Precinct in Bondi Junction.

- (c) Preparing a draft Plan of Management for the Entertainment Precinct.
 - (d) Any requirements for a specific Waverley Special Entertainment Precinct to facilitate the creation of an Entertainment Precinct.
 - (e) The scope of any community consultation process.
2. Convenes a Councillor briefing early in 2024 to discuss the benefits and risks for an entertainment precinct/zone in Bondi Junction, how an Entertainment Precinct could be introduced, how it could operate, what could be its potential boundaries, and what would a community consultation strategy look like.
 3. Receives a report by no later than April 2024.

Division

For the Motion: Crs Betts, Burrill, Fabiano, Goltsman, Gray, Kay, Keenan, Masselos, Murray and Nemesh.

Against the Motion: Cr Wy Kanak

CM/8.6/23.11 Continuous Pedestrian Paths of Travel - Accessibility Solutions (A21/0205)

MOTION

Mover: Cr Kay
 Seconder: Cr Burrill

That Council:

1. Notes Council resolution CM/8.2/21.11 (Accessibility in Waverley) for Waverley to become the most accessible place in NSW.
2. Notes the Disability Inclusion Action Plan (DIAP) 2022–26, which aims to identify what needs to be done to optimise accessibility and inclusion in Waverley.
3. Notes actions from Council's Bondi Junction Pedestrian Access and Mobility Plan (PAMP) 2009 are now finalised.
4. Notes the Waverley People, Movement and Places Study approved by Council in December 2017.
5. Officers prioritise the installation of Tactile Graphic Surface Indicators (TGSIs), known as tactile markers, such as at existing continuous footpath treatments (CFTs) in Waverley, ensuring that installations meet best practice for proper alignment with all desire lines of pedestrian travel, starting with high pedestrian areas in Bondi Junction.
6. Officers, through Council's internal Access and Mobility Working Group:
 - (a) Continue to conduct access audits of the Bondi Junction commercial area and villages centres throughout Waverley to plan, prioritise and action improvements to continuous pedestrian paths of travel, including footpaths, kerb ramps, cycleways, continuous footpath treatments, shared paths, shared zones, unsignalised pedestrian crossing, and signalised intersections using a staged approach to create outcomes as soon as possible.

- (b) Identify areas of concern that fall under the authority of Transport for NSW/the NSW State Government and then make representations, as appropriate, with Councillors being notified.

7. Officers engage with the Access and Inclusion Advisory Panel on proposals.
8. Officers request design input on the above initiatives from Guide Dogs NSW and other stakeholders in the vision impaired area.
9. Receives a progress report in the first half of 2024 on the above actions.

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

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

UNANIMOUS DECISION

That Council:

1. Notes Council resolution CM/8.2/21.11 (Accessibility in Waverley) for Waverley to become the most accessible place in NSW.
2. Notes the Disability Inclusion Action Plan (DIAP) 2022–26, which aims to identify what needs to be done to optimise accessibility and inclusion in Waverley.
3. Notes actions from Council's Bondi Junction Pedestrian Access and Mobility Plan (PAMP) 2009 are now finalised.
4. Notes the Waverley People, Movement and Places Study approved by Council in December 2017.
5. Officers prioritise the installation of Tactile Graphic Surface Indicators (TGSIs), known as tactile markers, such as at existing continuous footpath treatments (CFTs) in Waverley, ensuring that installations meet best practice for proper alignment with all desire lines of pedestrian travel, starting with high pedestrian areas in Bondi Junction.
6. Officers, through Council's internal Access and Mobility Working Group:
 - (a) Continue to conduct access audits of the Bondi Junction commercial area and villages centres throughout Waverley to plan, prioritise and action improvements to continuous pedestrian paths of travel, including footpaths, kerb ramps, cycleways, continuous footpath treatments, shared paths, shared zones, unsignalised pedestrian crossing, and signalised intersections using a staged approach to create outcomes as soon as possible.
 - (b) Identify areas of concern that fall under the authority of Transport for NSW/the NSW State Government and then make representations, as appropriate, with Councillors being notified.
7. Officers investigate any funding sources to carry out this work.
8. Officers engage with the Access and Inclusion Advisory Panel on proposals.
9. Officers request design input on the above initiatives from Guide Dogs NSW and other stakeholders in the vision impaired area.
10. Receives a progress report in the first half of 2024 on the above actions.

K Yamamoto addressed the meeting.

9. Questions with Notice

There were no questions with notice.

10. Urgent Business

There was no urgent business.

11. Closed Session

CM/11/23.11 Closed Session

MOTION / DECISION

Mover: Cr Masselos
Seconder: Cr Goltsman

That:

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

CM/11.1/23.11 CONFIDENTIAL REPORT - Pedestrian Laneway between Dickson Lane and Belgrave Street, Bronte

This matter is considered to be confidential in accordance with section 10A(2)(c) of the *Local Government Act*, and Council is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.

CM/11.4/23.11 CONFIDENTIAL REPORT - 194-214 Oxford Street and 2 Nelson Street, Bondi Junction - Use of Council Land

This matter is considered to be confidential in accordance with section 10A(2)(c) of the *Local Government Act*, and Council is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.

CM/11.5/23.11 CONFIDENTIAL REPORT - Flickerfest 2024 - Financial Assistance

This matter is considered to be confidential in accordance with section 10A(2)(d)(i) of the *Local Government Act*, and Council is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to

the public interest as it deals with commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.

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

At 11.33 pm, Council moved into closed session.

CM/11.1/23.11 CONFIDENTIAL REPORT - Pedestrian Laneway between Dickson Lane and Belgrave Street, Bronte (A17/0243)

MOTION

Mover: Cr Murray
Seconder: Cr Kay

That Council:

1. Treats 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)(c) of the *Local Government Act 1993*. The report contains information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.
2. Notes the petition on the pedestrian laneway between Dickson Lane and Belgrave Street, Bronte, circulated to Councillors and tabled at the Council meeting.
3. Approves Option 2, as set out in the report and in accordance with the negotiation protocol agreed at the meeting, in relation to the laneway.
4. Officers prepare a report to Council on the outcomes of the negotiation.

AMENDMENT (LAPSED)

Mover: Cr Wy Kanak

That clause 3 be amended to read as follows:

‘That Council approves Option 1, as set out in the report.’

THE MOTION WAS THEN PUT AND DECLARED CARRIED.

DECISION

That Council:

1. Treats 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)(c) of the *Local Government Act 1993*. The report contains information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.
2. Notes the petition on the pedestrian laneway between Dickson Lane and Belgrave Street, Bronte,

circulated to Councillors and tabled at the Council meeting.

3. Approves Option 2, as set out in the report and in accordance with the negotiation protocol agreed at the meeting, in relation to the laneway.
4. Officers prepare a report to Council on the outcomes of the negotiation.

Cr Lewis was not present for the vote on this item.

D Mitchell, V Mitchell and A Pouloukefalos addressed the meeting.

CM/11.2/23.11 CONFIDENTIAL REPORT - Commercial Waste - Fees and Charges 2024 (A02/0162)

Council dealt with this item in open session.

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos

Seconder: Cr Murray

That Council:

1. Treats 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)(d)(ii) of the *Local Government Act 1993*. The report contains information that would, if disclosed, confer a commercial advantage on a competitor of Council.
2. Adopts the fees and charges for commercial waste services as set out in Table 2 of the report for the period 1 January 2024 to 31 December 2024.

CM/11.3/23.11 CONFIDENTIAL REPORT - Shops 2 and 3, 276 Bronte Road, Waverley - Lease (A23/0711)

Council dealt with this item in open session.

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos

Seconder: Cr Murray

That Council:

1. Treats 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)(c) of the *Local Government Act 1993*. The report contains information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.
2. Grants a lease to Final Touch Building Pty Ltd for Shops 2 and 3, 276 Bronte Road, Waverley, on the terms and conditions set out in Table 1 of the report.
3. Authorises the General Manager or delegate to complete negotiations and execute all necessary documentation to finalise the matter.

CM/11.4/23.11 CONFIDENTIAL REPORT - 194-214 Oxford Street and 2 Nelson Street, Bondi Junction - Use of Council Land (A21/0285)

MOTION / DECISION

Mover: Cr Masselos
Seconder: Cr Keenan

That Council:

1. Treats 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)(c) of the *Local Government Act 1993*. The report contains information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.
2. Applies for possessory title over the land in Osmund Lane, Bondi Junction, identified in the report.
3. Authorises the General Manager and the Mayor to execute and affix Council's seal to any documentation lodged with Land Registry Services.

Cr Wy Kanak requested that his vote against the motion be recorded in the minutes.

Cr Lewis was not present for the vote on this item.

CM/11.5/23.11 CONFIDENTIAL REPORT - Flickerfest 2024 - Financial Assistance (A22/0540)

MOTION (WITHDRAWN)

Mover: Cr Masselos
Seconder: Cr Fabiano

That Council:

1. Treats 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 10 (2)(c) of the *Local Government Act 1993*. The report contains information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.
2. Notes that Flickerfest Pty Ltd is a for-profit enterprise.
3. In accordance with section 356 of the *Local Government Act 1993*, grants \$133,979 in kind support and \$52,000 financial assistance to Flickerfest Pty Ltd to support the cost of Flickerfest 2024.
4. Requires Flickerfest Pty Ltd to provide audited financial statements for any future financial assistance from Council.

AMENDMENT (WITHDRAWN)

Mover: Cr Murray

That:

1. Clause 3 be amended to read as follows:

‘In accordance with section 356 of the *Local Government Act 1993*, grants \$29,855.50 in financial assistance to Flickerfest Pty Ltd to support the cost of Flickerfest 2024.’

2. Clause 4 be amended to read as follows:

‘Requires Flickerfest Pty Ltd to provide audited financial statements and proof that it is compliant with all laws in 2024 for any future financial assistance from Council.’

FORESHADOWED AMENDMENT (LAPSED)

Mover: Cr Wy Kanak

That clause 4 be amended to read as follows:

‘Extends the time for Flickerfest Pty Ltd to provide the audited financial statements required by Council and proof that they are compliant with all laws in 2024 for any future financial assistance from Council.’

FORESHADOWED MOTION

Mover: Cr Masselos

Second: Cr Goltsman

That Council defers this item and requests clarification of the matters raised at the meeting by the 30 November 2023, and officers prepare a report to Council as soon as possible.

THE MOVER OF THE MOTION THEN WITHDREW THE MOTION.

THE FORESHADOWED MOTION THEN BECAME THE MOTION AND WAS PUT AND DECLARED CARRIED.

DECISION

That Council defers this item and requests clarification of the matters raised at the meeting by 30 November 2023, and officers prepare a report to Council as soon as possible.

Cr Lewis was not present for the vote on this item.

B Kidd (on behalf of Flickerfest Pty Ltd) addressed the meeting.

12. Resuming in Open Session

CM/12/23.11 Resuming in Open Session

MOTION / DECISION

Mover: Cr Masselos

Second: Cr Keenan

That Council resumes in open session.

At 12.45 am, Council resumed in open session.

Resolutions from closed session made public

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

13. Meeting Closure

THE MEETING CLOSED AT 12.49 AM.

.....
SIGNED AND CONFIRMED
MAYOR
12 DECEMBER 2023

CONFIRMATION AND ADOPTION OF MINUTES CM/5.2/23.12



Subject: Confirmation of Minutes - Extraordinary Council Meeting -
5 December 2023

TRIM No: SF23/16

Manager: Richard Coelho, Executive Manager, Governance

RECOMMENDATION:

That the minutes of the extraordinary Council meeting held on 5 December 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 Council meetings must be confirmed at a subsequent meeting of Council, in accordance with section 375 of the *Local Government Act 1993*.

Attachments

1. Extraordinary Council Meeting Minutes - 5 December 2023 .



**MINUTES OF THE WAVERLEY EXTRAORDINARY COUNCIL MEETING
HELD AT WAVERLEY COUNCIL CHAMBERS, CNR PAUL STREET AND BONDI ROAD, BONDI JUNCTION ON
TUESDAY, 5 DECEMBER 2023**

Present:

| | |
|---|---------------|
| Councillor Paula Masselos (Mayor) (Chair) | Lawson Ward |
| Councillor Sally Betts | Hunter Ward |
| Councillor Angela Burrill | Lawson Ward |
| Councillor Ludovico Fabiano | Waverley Ward |
| Councillor Leon Goltsman | Bondi Ward |
| Councillor Michelle Gray | Bondi Ward |
| Councillor Tony Kay | Waverley Ward |
| Councillor Elaine Keenan | Lawson Ward |
| Councillor Steven Lewis | Hunter Ward |

Staff in attendance:

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

At the commencement of proceedings at 6.04 pm, those present were as listed above, with the exception of Cr Lewis who arrived at 6.19 pm during item CM/4.1/23.12E.

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

PRAYER AND ACKNOWLEDGEMENT OF INDIGENOUS HERITAGE

The General Manager read the following 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 Mayor 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/Leaves of Absence

Apologies were received from Cr Will Nemesh and Cr Dominic Wy Kanak.

CM/1.1/23.12E Leave of Absence - Cr Murray (A03/0029)

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos

That Council grants Cr Tim Murray leave of absence from the extraordinary Council meeting on 5 December 2023 and the Council meeting on 12 December 2023 due to overseas travel.

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. Closed Session

CM/4/23.12E Closed Session

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos

Seconder: Cr Kay

That:

4. Council moves into closed session to deal with the matters listed below, which are classified as

confidential under section 10A(2) of the *Local Government Act* for the reasons specified:

CM/4.1/23.12E CONFIDENTIAL REPORT - Flickerfest 2024 - Financial Assistance

This matter is considered to be confidential in accordance with section 10A(2)(c) of the *Local Government Act*, and Council is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.

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

At 6.06 pm, Council moved into closed session.

CM/4.1/23.12E CONFIDENTIAL REPORT - Flickerfest 2024 - Financial Assistance (A22/0540)

A notice of motion to rescind this resolution has been submitted with the General Manager. The rescission motion will be considered at the Council meeting on 12 December 2023.

MOTION

Mover: Cr Masselos
Seconder: Cr Goltsman

That Council:

1. Treats 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)(c) of the *Local Government Act 1993*. The report contains information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.
2. Notes that Flickerfest Pty Ltd is a for-profit enterprise.
3. In accordance with section 356 of the *Local Government Act 1993*, grants \$133,979 of in-kind support and \$38,000 in cash to Flickerfest Pty Ltd to support the cost of Flickerfest 2024.
7. Requires Flickerfest Pty Ltd to provide audited financial statements from February 2024 for any future financial assistance from Council.
8. Authorises the General Manager or delegate to execute an event licence with Flickerfest Pty Ltd to deliver Flickerfest 2024.

FORESHADOWED MOTION

Mover: Cr Keenan
Seconder: Cr Betts

That Council:

1. Treats 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)(c) of the *Local Government Act 1993*. The report

contains information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.

2. Notes that Flickerfest Pty Ltd is a for-profit enterprise.
3. In accordance with section 356 of the *Local Government Act 1993*, grants \$29,855.50 in financial assistance to Flickerfest Pty Ltd to support the cost of Flickerfest 2024.
4. Requires Flickerfest Pty Ltd to provide audited financial statements from February 2024 for any future financial assistance from Council, as well as evidence of staff time, attendance records and correct award rates of pay.
5. Officers commence negotiations with Flickerfest Pty Ltd for a Memorandum of Understanding (MOU) as early as possible in 2024 to set the conditions of use of Bondi Pavilion and funding arrangements for the 2025 event.
6. Authorises the General Manager or delegate to execute an event licence with Flickerfest Pty Ltd to deliver Flickerfest 2024 to be held in the Pavilion theatre, which will ensure that the courtyard and Pavilion remain open to our community and visitors during the evening sessions of the Flickerfest 2024 event.

THE MOTION WAS THEN PUT AND DECLARED LOST.

THE FORESHADOWED MOTION THEN BECAME THE MOTION.

THE MOVER OF THE MOTION THEN ACCEPTED AMENDMENTS TO CLAUSE 6.

THE MOTION AS AMENDED WAS THEN PUT AND DECLARED CARRIED.

DECISION

That Council:

1. Treats 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)(c) of the *Local Government Act 1993*. The report contains information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.
2. Notes that Flickerfest Pty Ltd is a for-profit enterprise.
3. In accordance with section 356 of the *Local Government Act 1993*, grants \$29,855.50 in financial assistance to Flickerfest Pty Ltd to support the cost of Flickerfest 2024.
4. Requires Flickerfest Pty Ltd to provide audited financial statements from February 2024 for any future financial assistance from Council, as well as evidence of staff time, attendance records and correct award rates of pay.
5. Officers commence negotiations with Flickerfest Pty Ltd for a Memorandum of Understanding (MOU) as early as possible in 2024 to set the conditions of use of Bondi Pavilion and funding arrangements for the 2025 event.
6. Authorises the General Manager or delegate to execute an event licence with Flickerfest Pty Ltd to deliver Flickerfest 2024 to be held in the Pavilion theatre and overflow in the Seagull Room, which will ensure that the courtyard and Pavilion remain open to our community and visitors during the

evening sessions of the Flickerfest 2024 event.

5. Resuming in Open Session

CM/5/23.12E Resuming in Open Session

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos

Seconder: Cr Kay

That Council resumes in open session.

At 6.57 pm, Council resumed in open session.

Resolutions from closed session made public

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

6. Urgent Business

There was no urgent business.

7. Meeting Closure

THE MEETING CLOSED AT 6.59 PM.

.....
SIGNED AND CONFIRMED
MAYOR
12 DECEMBER 2023

CONFIRMATION AND ADOPTION OF MINUTES CM/5.3/23.12



Subject: Adoption of Minutes - Waverley Traffic Committee Meeting - 23 November 2023

TRIM No: SF23/19

Manager: Richard Coelho, Executive Manager, Governance

RECOMMENDATION:

That Part 1 of the minutes of the Waverley Traffic Committee meeting held on 23 November 2023 be received and noted, and that the recommendations contained therein be adopted.

Introduction/Background

The Waverley Traffic Committee (WTC) is a committee of Council that operates under guidelines from Transport for NSW (TfNSW), an agency of the NSW Government. It is advisory-only and has no decision-making powers.

The purpose of the WTC is to make recommendations and provide advice to Council on the technical aspects of proposals to regulate traffic on local roads in Waverley. The recommendations of the WTC must be adopted by Council before they can be implemented.

Part 1 of the minutes of WTC meetings must be submitted to Council for adoption in accordance with clause 18 of the Waverley Traffic Committee Charter.

Council has the opportunity to 'save and except' any of the recommendations listed in Part 1 of the minutes for further consideration in accordance with clause 18.1 of the Charter.

Attachments

1. Waverley Traffic Committee Minutes - 23 November 2023 .

**MINUTES OF THE WAVERLEY TRAFFIC COMMITTEE
MEETING HELD VIA VIDEO CONFERENCE ON
THURSDAY, 23 NOVEMBER 2023**



Voting Members Present:

| | |
|---------------|---|
| Cr P Masselos | Waverley Council – Chair |
| Mr D Gojak | Representing Kellie Sloane MP, Member for Vaucluse |
| Mr V Le | Transport for NSW – Network and Safety Officer |
| Sgt A Leeson | NSW Police – Eastern Suburbs Police Area Command – Traffic Services |
| Mr P Pearce | Representing Marjorie O’Neil MP, Member for Coogee |

Also Present:

| | |
|-----------------|---|
| Mr P Short | NSW Police – Eastern Suburbs Police Area Command – Traffic Services |
| Mr B Gidies | Transdev John Holland – Traffic and Events Manager |
| Ms L Cook | Transport for NSW – Senior Transport Operations Planner |
| Mr D Davidson | Transport for NSW |
| Ms K Lewis | Transport for NSW – Manager, Communication and Stakeholder Engagement |
| Cr T Kay | Waverley Council – Deputy Chair |
| Cr L Fabiano | Waverley Council – Councillor – Waverley Ward |
| Mr N Zervos | Waverley Council – Executive Manager, Infrastructure Services |
| Mr S Samadian | Waverley Council – Manager, Asset Systems and Planning |
| Mr A Karki | Waverley Council – Traffic Engineer |
| Mr K Magistrado | Waverley Council – Traffic Engineer |
| Mr M Soomro | Waverley Council – Traffic Engineer |

At the commencement of proceedings at 10.00 am, those present were as listed above.

At 10.48 am, Mr P Pearce left the meeting and did not return.

Apologies

There were no apologies.

Declarations of Interest

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

Adoption of Previous Minutes by Council - 26 October 2023

The recommendations contained in Part 1 – Matters Proposing that Council Exercise its Delegated Functions – of the Waverley Traffic Committee meeting held on 26 October 2023 were adopted by Council at its meeting on 21 November 2023 with the following change:

1. TC/C.01/23.10 – Bourke Street, Queens Park – Upgrade.

Council adopted the Traffic Committee's recommendation subject to an amendment to clause 3 such that that the recommendation now reads as follows:

That Council:

4. Upgrades Bourke Street, Queens Park, as per Option 1 of the report, including the installation of a separated uphill bike path, in accordance with the design attached to the report (Attachment 1).
5. Delegates authority to the Executive Manager, Infrastructure Services, to modify the design should on-site circumstances warrant changes.
6. Undertakes a community education program regarding bike lanes and bike use generally in Waverley, with Council receiving a report on the matter prior to the program commencing.

ITEMS BY EXCEPTION

The following items on the agenda were dealt with together and the Council Officer's Proposal for each item was unanimously supported by the Committee:

- | | |
|---------------|---|
| TC/V.04/23.11 | Dudley Page Reserve New Year's Eve – Traffic Management Plan. |
| TC/V.05/23.11 | Resident Parking Scheme Area 6 – Extension. |
| TC/V.06/23.11 | Resident Parking Scheme Area 12 – Extension. |
| TC/V.08/23.11 | 246-248 Campbell Parade, Bondi Beach – Construction Zone. |

PART 1 – MATTERS PROPOSING THAT COUNCIL EXERCISE ITS DELEGATED FUNCTIONS

NOTE: *The matters listed under this part of the agenda propose that Council either does or does not exercise the traffic related functions delegated to it by TfNSW. The recommendations made by the Committee under this part of the agenda will be submitted to Council for adoption.*

TC/C STATE ELECTORATE OF COOGEE**TC/C.01/23.11 42 Varna Street, Waverley - Construction Zone (A03/2514-04)****COUNCIL OFFICER'S PROPOSAL:**

That Council:

1. Installs a 12 metre 'No Parking, 7 am–5 pm Mon–Fri, 8 am–3 pm Sat, Council Authorised Vehicles Excepted' construction zone in Carlton Street, Waverley, adjacent to 42 Varna Street, Waverley.
2. Requires the applicant to notify residents in the vicinity of the construction zone prior to it being installed.
3. Delegates authority to the Executive Manager, Infrastructure Services, to adjust the length and duration of, or remove the construction zone as necessary.

WTC RECOMMENDATION (UNANIMOUS SUPPORT):

That the Council Officer's Proposal be adopted.

Voting members present for this item: Representative of the Member for Coogee, NSW Police representative, TfNSW representative and Waverley Council representative (Chair).

TC/C.02/23.11 Woolworths Metro, 113 Macpherson Street, Bronte - Pedestrian Facility Upgrades and Parking Restrictions (SF23/19)**COUNCIL OFFICER'S PROPOSAL:**

That Council:

1. Installs a kerb buildout to replace the traffic island in front of 113 Macpherson Street, Bronte, as shown in Figure 2 of the report.
2. Relocates the 15.4 metre Truck Zone 4 metres to the east and lengthens it to 17.5 metres.
3. Changes the 'Truck Zone, 9 am–12 pm, Taxi Zone at Other Times' to 'Truck Zone, 9 am–12 pm, P15 7 am–9 am, 12 pm–10 pm Mon–Sat, 7 am–10 pm Sun.'
4. Upgrades the traffic islands at the intersection of Macpherson Street and Yanko Avenue.
5. Installs 'Give Way' line markings and signs at the intersection of Macpherson Street and Yanko Avenue.
6. Installs a 4.2 metre 'P Motorbikes Only' in Macpherson Street adjacent to 1 Yanko Avenue, Bronte.

WTC RECOMMENDATION (UNANIMOUS SUPPORT):

That the Council Officer's Proposal be adopted subject to being amended to be read as follows:

That Council:

1. Defers the following matters for reconsideration:
 - (a) Installs a kerb buildout to replace the traffic island in front of 113 Macpherson Street, Bronte, as shown in Figure 2 of the report.
 - (b) Relocates the 15.4 metre Truck Zone 4 metres to the east and lengthens it to 17.5 metres.
 - (c) Changes the 'Truck Zone, 9 am–12 pm, Taxi Zone at Other Times' to 'Truck Zone, 9 am–12 pm, P15 7 am–9 am, 12 pm–10 pm Mon–Sat, 7 am–10 pm Sun.'
2. Approves the following matters:
 - (a) Upgrades the traffic islands at the intersection of Macpherson Street and Yanko Avenue.
 - (b) Installs 'Give Way' line markings and signs at the intersection of Macpherson Street and Yanko Avenue.
 - (c) Installs a 4.2 metre 'P Motorbikes Only' in Macpherson Street adjacent to 1 Yanko Avenue, Bronte.

Voting members present for this item: Representative of the Member for Coogee, NSW Police representative, TfNSW representative and Waverley Council representative (Chair).

TC/V STATE ELECTORATE OF VAUCLUSE**TC/V.01/23.11 Hall Street, Bondi - Closure and Improvement Works (A23/0506)****COUNCIL OFFICER'S PROPOSAL:**

That Council:

1. Permanently closes Hall Street, Bondi, at the intersection of Old South Head Road.
2. Approves the design attached to the report to formalise the road closure.
3. Delegates authority to Executive Manager, Infrastructure Services, to modify the design should on-site circumstances warrant changes.

WTC RECOMMENDATION (UNANIMOUS SUPPORT):

That the Council Officer's Proposal be adopted subject to an amendment to clause 1 such that the recommendation now reads as follows:

That Council:

1. Formally closes Hall Street, Bondi, at the intersection of Old South Head Road.
2. Approves the design attached to the report to formalise the road closure.
3. Delegates authority to Executive Manager, Infrastructure Services, to modify the design should on-site circumstances warrant changes.

Voting members present for this item: Representative of the Member for Vaucluse, NSW Police representative, TfNSW representative and Waverley Council representative (Chair).

TC/V.02/23.11 Blair Street, North Bondi - Raised Pedestrian Crossings (A20/0069)

COUNCIL OFFICER'S PROPOSAL:

That Council:

1. Installs a raised pedestrian crossing in Blair Street, North Bondi, on the eastern side of the intersection with Mitchell Street, as shown in Figure 2 of the report.
2. Upgrades the raised pedestrian crossing in Blair Street on the western side of the intersection with Mitchell Street, as shown in Figure 3 of the report.
3. Delegates authority to the Executive Manager, Infrastructure Services, to modify the designs should on-site circumstances warrant changes.

WTC RECOMMENDATION (UNANIMOUS SUPPORT):

That the Council Officer's Proposal be adopted subject to amendments to clauses 1 and 3 such that the recommendation now reads as follows:

1. Installs a raised pedestrian crossing in Blair Street, North Bondi, on the eastern side of the intersection with Mitchell Street, as shown in Figure 2 of the report, subject to reducing the north-side kerb extension and 'No Stopping' zone on the departure side to 2.5 metres.
2. Upgrades the raised pedestrian crossing in Blair Street on the western side of the intersection with Mitchell Street, as shown in Figure 3 of the report.
3. Delegates authority to the Executive Manager, Infrastructure Services, to modify the designs should on-site circumstances warrant changes, subject to relevant conservation management plan requirements.

Voting members present for this item: Representative of the Member for Vaucluse, NSW Police representative, TfNSW representative and Waverley Council representative (Chair).

TC/V.03/23.11 Gould Street and Warners Avenue, Bondi Beach - Continuous Footpath Treatment (A20/0069)**COUNCIL OFFICER'S PROPOSAL:**

That Council:

1. Installs continuous footpath treatments on the north-east and south-west leg of the intersection of Gould Street and Warners Avenue, Bondi Beach, as shown in Figure 2 of the report.
2. Delegates authority to the Executive Manager, Infrastructure Services, to modify the designs should on-site circumstances warrant changes.

WTC RECOMMENDATION (UNANIMOUS SUPPORT):

That the Council Officer's Proposal be adopted subject to the addition of a new clause such that the recommendation now reads as follows:

That Council:

1. Installs continuous footpath treatments on the north-east and south-west leg of the intersection of Gould Street and Warners Avenue, Bondi Beach, as shown in Figure 2 of the report.
2. Liaises with Guide Dogs NSW to determine a suitable materiality to support visually impaired pedestrians within two traffic islands, thereby informing detailed designs.
3. Delegates authority to the Executive Manager, Infrastructure Services, to modify the designs should on-site circumstances warrant changes.

Voting members present for this item: Representative of the Member for Vacluse, NSW Police representative, TfNSW representative and Waverley Council representative (Chair).

TC/V.04/23.11 Dudley Page Reserve New Year's Eve - Traffic Management Plan (A23/0539)**COUNCIL OFFICER'S PROPOSAL:**

That Council:

1. Approves the traffic arrangements for the New Year's Eve event at Dudley Page Reserve, Dover Heights, in accordance with the Traffic Management Plan attached to the report, subject to the event organisers:
 - (a) Submitting a Traffic Management Plan to Transport for NSW in accordance with the NSW Government Guide to Traffic and Transport Management for Special Events.
 - (b) Obtaining NSW Police Force approval.
2. Delegates authority to the Executive Manager, Infrastructure Services, to approve any modification to the Traffic Management Plan.

WTC RECOMMENDATION (UNANIMOUS SUPPORT):

That the Council Officer's Proposal be adopted.

Voting members present for this item: Representative of the Member for Vacluse, NSW Police representative, TfNSW representative and Waverley Council representative (Chair).

TC/V.05/23.11 Resident Parking Scheme Area 6 - Extension (A02/0750)

COUNCIL OFFICER'S PROPOSAL:

That Council:

1. Installs '2P, 8 am–10 pm, All Days, Permit Holders Excepted Area 6' parking restrictions in Hastings Parade, North Bondi, east of Military Road, as shown in Figure 1 of the report.
2. Retains unrestricted parking and does not install '2P 8 am–10 pm, All Days, Permit Holders Excepted Area 6' parking restrictions in Military Road, Wallis Parade, Wairoa Avenue and Hastings Parade, west of Military Road, North Bondi, as shown in Figure 1 of the report.
3. Retains existing parking restrictions in the rest of Area 6.

WTC RECOMMENDATION (UNANIMOUS SUPPORT):

That the Council Officer's Proposal be adopted.

Voting members present for this item: Representative of the Member for Vacluse, NSW Police representative, TfNSW representative and Waverley Council representative (Chair).

TC/V.06/23.11 Resident Parking Scheme Area 12 - Extension (A02/0750)

COUNCIL OFFICER'S PROPOSAL:

That Council:

1. Retains unrestricted parking and does not install '2P, 8 am–10 pm, All Days, Permit Holders Excepted Area 12' parking restrictions in Penkivil Street, Martin Avenue, Ocean Street North, Wellington Street, Moore Street, Henderson Street and Edward Street, Bondi, as shown in Figure 1 of the report.
2. Retains existing parking restrictions in the rest of Area 12.

WTC RECOMMENDATION (UNANIMOUS SUPPORT):

That the Council Officer's Proposal be adopted.

Voting members present for this item: Representative of the Member for Vacluse, NSW Police representative, TfNSW representative and Waverley Council representative (Chair).

TC/V.07/23.11 Resident Parking Scheme Area 9 - Extension (A02/0750)**COUNCIL OFFICER'S PROPOSAL:**

That Council:

1. Installs '2P, 8 am–6 pm, All Days, Permit Holders Excepted Area 9' parking restrictions in Glenayr Avenue, North Bondi, as shown in Figure 1 of the report.
2. Retains existing parking restrictions in O'Donnell Street and Oakley Road.

WTC RECOMMENDATION (UNANIMOUS SUPPORT):

That the Council Officer's Proposal be adopted subject to amendment to clause 1 such that the recommendation now reads as follows:

That Council:

1. Installs '2P, 8 am–6 pm, All Days, Permit Holders Excepted Area 9' parking restrictions in Glenayr Avenue, North Bondi, between Blair Street and O'Donnell Street, as shown in Figure 1 of the report.
2. Retains existing parking restrictions in O'Donnell Street and Oakley Road.

Voting members present for this item: Representative of the Member for Vaucluse, NSW Police representative, TfNSW representative and Waverley Council representative (Chair).

TC/V.08/23.11 246-248 Campbell Parade, Bondi Beach - Construction Zone (A03/2514-04)**COUNCIL OFFICER'S PROPOSAL:**

That Council:

1. Installs an 18 metre 'No Parking, 7 am–5 pm Mon–Fri, 8 am–3 pm Sat, Council Authorised Vehicles Excepted' construction zone in front of 246–248 Campbell Parade, Bondi Beach.
2. Requires the applicant to notify residents in the vicinity of the construction zone prior to it being installed.
3. Delegates authority to the Executive Manager, Infrastructure Services to adjust the length and duration of, or remove the construction zone as necessary.

WTC RECOMMENDATION (UNANIMOUS SUPPORT):

That the Council Officer's Proposal be adopted.

Voting members present for this item: Representative of the Member for Vaucluse, NSW Police representative, TfNSW representative and Waverley Council representative (Chair).

TC/CV ELECTORATES OF COOGEE AND VAUCLUSE

Nil.

THE MEETING CLOSED AT 11.07 AM.

.....
SIGNED AND CONFIRMED
MAYOR
12 DECEMBER 2023

:

MAYORAL MINUTES CM/6/23.12

Subject: Mayoral Minutes

Author: Mayor of Waverley, Cr Paula Masselos



Mayoral minutes are permissible at Waverley Council meetings under the Waverley Code of Meeting Practice. Clauses 9.7–9.11 of the Code state:

Subject to clause 9.10, if the mayor is the chair at a meeting of the council, the mayor may, by minute signed by the mayor, put to the meeting without notice any matter or topic that is within the jurisdiction of the council, or of which the council has official knowledge.

A mayoral minute, when put to a meeting, takes precedence over all business on the council's agenda for the meeting. The chair (but only if the chair is the mayor) may move the adoption of a mayoral minute without the motion being seconded.

A recommendation made in a mayoral minute put by the mayor is, so far as it is adopted by the council, a resolution of the council.

A mayoral minute must not be used to put without notice matters that are routine and not urgent, or matters for which proper notice should be given because of their complexity. For the purpose of this clause, a matter will be urgent where it requires a decision by the council before the next scheduled ordinary meeting of the council.

Where a mayoral minute makes a recommendation which, if adopted, would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan, it must identify the source of funding for the expenditure that is the subject of the recommendation. If the mayoral minute does not identify a funding source, the council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the recommendation if adopted.

REPORT
CM/7.1/23.12

Subject: Waverley Artist Studios Appointments - 2024-25

TRIM No: A23/0398

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

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

RECOMMENDATION:

That Council:

1. Offers the following artists a placement in the Waverley Artist Studios from March 2024 to February 2025:
 - (a) Dennis Golding and Carmen GylIn-Braun (Re-Right Collective).
 - (b) Nick Breedon.
 - (c) Akil Ahamat.
 - (d) Remmy Faint.
 - (e) Rox DeLuca.
 - (f) Jacquie Meng.
2. Offers the following artists a reserve placement in the Waverley Artist Studios from March 2024 to February 2025:
 - (a) Elizabeth Day.
 - (b) Kai Wasikowski.
 - (c) Tarik Ahlip.
 - (d) Gerwyn Davies.

1. Executive Summary

This report provides information on Waverley Artist Studios and summarises applications proposed for the next studio period for March 2024-February 2025.

Following an external peer assessment process, recommendations made by the peer assessment panel were put to the Arts, Culture and Creativity Advisory Committee who voted to endorse the panel's recommendations. Officers now request that Council endorse the recommendations that:

- Dennis Golding and Carmen Glyn-Braun (Re-Right Collective), Nick Breedon, Akil Ahamat, Remmy Faint, Rox DeLuca and Jacquie Meng are offered a place in the March 2024–February 2025 studios.
- Elizabeth Day, Kai Wasikowski, Tarik Alhip and Gerwyn Davies are placed on the reserve list for the March 2024–February 2025 studios

There are no direct costs to Council for the Waverley Artist Studios, as in-kind support is provided using artist studios at the Waverley Woollahra Art School.

2. Introduction/Background

This is the 13th year of Waverley Artist Studios. The Waverley Artist Studios program offers six rent-free workspaces to artists for twelve months. Five of the artist studios are based in the Waverley Woollahra Art School building on Bondi Road. In 2023 a sixth space, located next to the art gallery in Bondi Pavilion, was trialled as part of the program. That studio will be maintained as part of the Waverley Artist Studios program for the period of 2024–2025.

Appointed studio artists work with Council staff and the community to produce creative programs, exhibitions and public engagement as part of their program tenure. Projects delivered include exhibitions, school holiday programs, senior programs, street art and public art projects, festival workshops and performances, art prize judging, sustainability programs and projects, library public programming, artist talks, advocacy, and peer assessment panels.

To date, the studio program has supported 75 artists with former resident artists also exhibiting in visual arts institutions including Museum of Contemporary Art, Art Gallery of NSW, Museum of Old and New (Hobart), National Gallery of Victoria, Art Gallery of South Australia, Queensland Art Gallery/Gallery of Modern Art, Perth Institute of Contemporary Art, Artspace Sydney, National Gallery of Australia, National Portrait Gallery, Carriageworks and numerous international galleries, biennales and art fairs.

Council's studio program enjoys a reputation for excellence in the visual arts community and is highly competitive, ensuring high-quality engagement outcomes for Waverley's community.

3. Relevant Council Resolutions

| Meeting and date | Item No. | Resolution |
|-----------------------------|--------------|--|
| Council 13 December 2022 | CM/7.7/22.12 | <p>That Council:</p> <ol style="list-style-type: none"> Offers the following artists a placement in the Waverley Artist Studios for the period of March 2023–February 2024: <ol style="list-style-type: none"> JD Reforma. Daniel Mudie Cunningham. Georgia Banks. Zoe Slee. Phillipa Hagon. Armando Chant. Offers the following artists a reserve placement in the Waverley Artist Studios for the period of March 2023– |

| | | |
|--|--|---|
| | | <p>February 2024:</p> <p>(a) Andrew Liversidge.</p> <p>(b) Natalie O'Loughlin.</p> <p>(c) Rox De Luca.</p> <p>(d) Nick Brennon.</p> |
|--|--|---|

4. Discussion

Visual Arts officers from the Arts and Culture team coordinated an expression of interest (EOI) calling for new Studio artists to commence in March 2024. The EOI was open for 47 days and 62 applications were received.

On 13 October 2023, a peer assessment panel consisting of the current Waverley Studios Artists assessed the applications received against the established Studio marking framework.

A shortlist of ten artists was reached with applications ranked according to their total scores. A presentation outlining the peer assessment panel's order of applications for recommendation to the studio program was given to newly established Arts, Culture and Creativity Advisory Committee for review and feedback on Monday, 20 November 2023. The committee voted to unanimously endorse the panel's recommendations. The peer assessment panel and the Arts, Culture and Creativity Advisory Committee recommends the following appointments:

Allocated studios:

- Dennis Golding and Carmen Glyn-Braun.
- Nick Breedon.
- Akil Ahamat.
- Remmy Faint.
- Rox DeLuca.
- Jacquie Meng.

On reserve:

- Elizabeth Day.
- Kai Wasikowski.
- Tarik Alhip.
- Gerwyn Davies.

5. Financial impact statement/Time frame/Consultation

Financial impact statement

Studio artists are provided with in-kind support from Council using the artist studios at Waverley Woollahra Art School and staff time in delivering the program. There are no direct costs to Council for the Waverley Artist Studios.

Time frame

If appointed, this group of artists will move into the studios on 1 March 2024 and remain in residence until 28 February 2025

Consultation

Visual Arts officers from the Arts and Culture team coordinated an Expression of Interest calling for new residents to commence in March 2024. The EOI ran from 14 August to 29 September 2023. 62 applications were received.

6. Conclusion

It is recommended that Council endorses Dennis Golding and Carmen Glyn-Braun, Nick Breedon, Akil Ahamat, Remmy Faint, Rox DeLuca and Jaquie Meng for a place in the March 2024-February 2025 studios, with Elizabeth Day, Kai Wasikowski, Tarik Alhip and Gerwyn Davies placed on reserve.

These appointments are recommended on the basis of the external peer review panel's assessment, followed by the endorsement of the Waverley Arts, Culture and Creativity Advisory Committee.

7. Attachments

1. Waverley Artist Studios 2024-2025 - Recommended appointments [↓](#) .



Waverley Artist Studios 2024- 2025 Recommended Appointments

Peer Assessment Panel Results

Top Ten recommended

1. Dennis Golding & Carmen Glyn-Braun (re-right collective)
2. Nick Breedon
3. Akil Ahamat
4. Remmy Faint
5. Rox DeLuca
6. Jacquie Meng
7. Elizabeth Day
8. Kai Wasikowski
9. Tarik Ahlip
10. Gerwyn Davies



1. Dennis Golding & Carmen Glynn-Braun (re-right collective)

- Re-Right Collective is an artistic collective between Dennis Golding and Carmen Glynn-Braun. The collective centers on stories of contemporary life with an approach to heal and strengthen the voices of First Nations history and experiences.
- The artists co-founded Re-Right to provide a safe space for emerging First Nations practitioners to form ideas and build a support network within the cultural arts. Re-Right strives to expand their creative practice through collaboration with a key goal to enhance and celebrate narratives of Aboriginal life.
- Carmen Glynn-Braun is an emerging Indigenous Australian artist stemming from the Arrernte, Kaytetye, and Anmatyerr nations across Central Australia. Carmen lived a dual life growing up between Alice Springs and inner-city Sydney. Glynn-Braun takes a trans-disciplinary approach across many mediums. Her work predominantly explores lived experiences of Aboriginal women translated through gentle and experimental approaches to materials and form.
- Dennis Golding is a Kamilaroi/Gamilaraay artist from the north west of NSW and was born and raised in Sydney. His practice is drawn from his own experiences living in urban environments and through childhood memories. Golding explores empowering notions of Indigenous cultural identity in which he challenges the categorical boundaries from both Indigenous and non-Indigenous experiences.





2. Nick Breedon

- Nick Breedon is an artist, and co-creator of the arts podcast Pro Prac. Their sculptural practice weaves references from lived experience, pop culture, and art history into recursive narratives about queer and crip intimacy, desire, and alienation. Nick incorporates a vast array of material processes and making techniques from craft, the western canon of sculpture; painting, textiles and video to make ritual-like objects. Nick's recent exhibition Public Art explored the potential for public art to agitate for collective liberation.
- Nick's other projects include holographic rainbow installation Monotone Rainbow; solo exhibitions Bongs and Commodores, Alaska Projects (Sydney); A Lot of Luck Bus Projects (Melbourne); Feelings West Space (Melbourne) and Firstdraft (Sydney); Sierpinski Mountain, TCB (Melbourne); and pyrotechnic text installation Let's Get Metaphysical, commissioned for the 2012 Splendour in the Grass festival. Nick's work has been shortlisted for a number of prizes and awards including the 64th Blake Prize, the 2015 Darebin Art Prize and the 2015 Wangaratta Contemporary Textiles Prize, and features in the collections of Artbank and City of Melbourne.

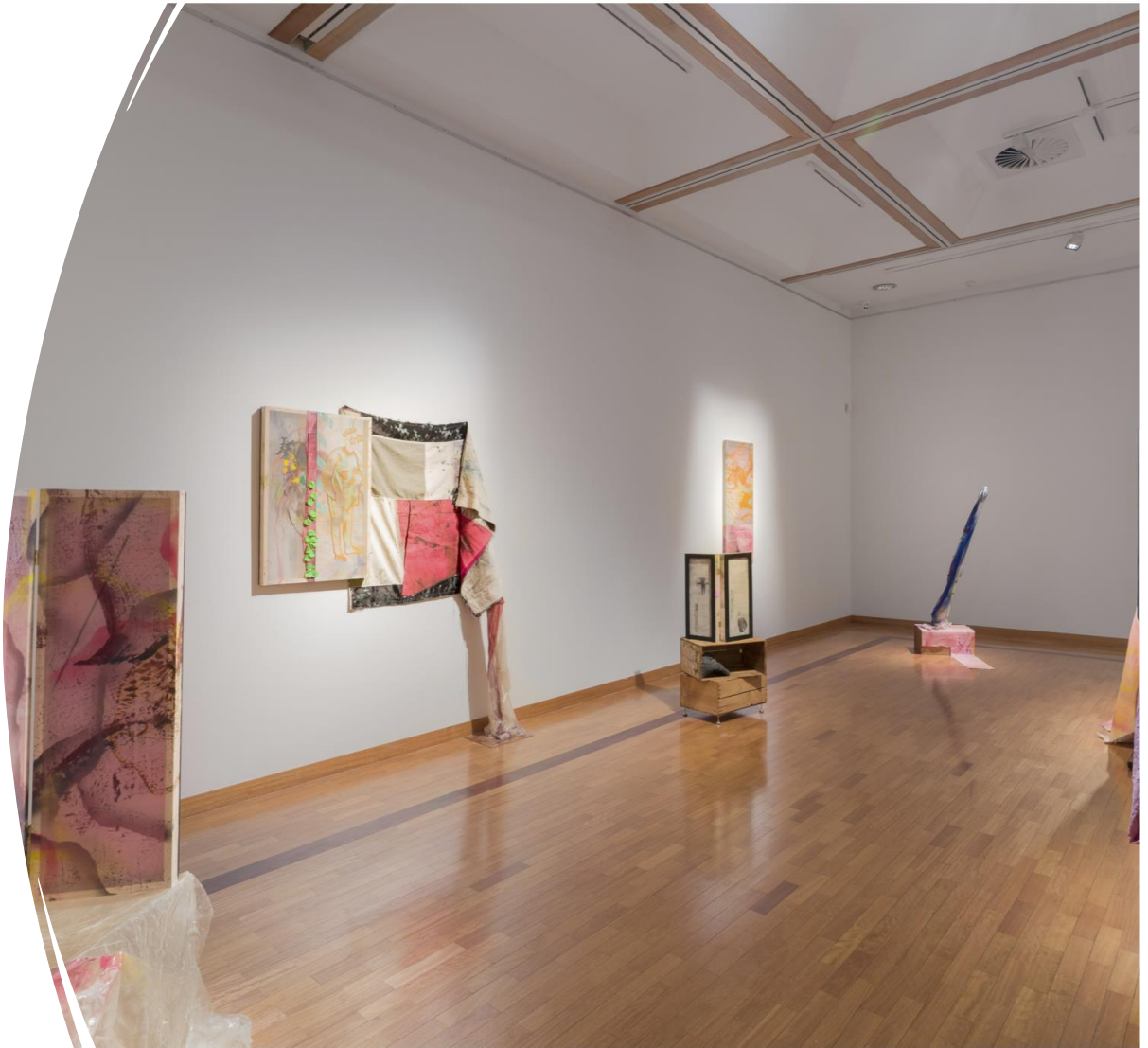


3. Akil Ahamat

- working in video, sound, installation and gaming. My early work focused on online experience and its effects on contemporary subjectivity. Recently, I have broadened my concerns, centering storytelling and kinship as remedy to contemporary information saturation, rising fascism and climate change. These works use the motif of darkness to represent the 'New Dark Age' that has resulted from information saturation. These works use narrative devices and the intense affect of ASMR to argue for the importance of emotion and the non-human to guide us amidst the futility of rationality and reason. I have most recently produced online works for 4a Centre for Contemporary Asian Art, Parramatta Artists' Studios, Sydney Review of Books and Bleed: Biennial Live Event in the Everyday Digital, and exhibited physically at The Living Museum of the West, The Lock Up, Palais De Tokyo, Monash University Museum of Art, Institute of Modern Art and Artspace. I was shortlisted for The Blake Prize (2022), The Churchie (2021) NSW Visual Arts Emerging Fellowship (2020) and was the winner of the John Fries Award (2018). I was a resident at Parramatta Artists' Studios from 2020-2021 and am currently a participant in the Counterflows program run by Arts House and Utp.

4. Remmy Faint

- I am an emerging artist working across diverse forms of painting, sculpture and installation. My practice is motivated by the desire to expand languages of painterly abstraction by examining its global histories. While often referencing collection-based objects and materials specific to my Chinese heritage — my works mediate cross-cultural and material frameworks to explore themes surrounding exchange, visibility and hybridised artistic production. For example, the use of silk as a painterly medium and the form of the folding screen are cited as spatial tools and transcultural motifs in various installation works. Despite recently completing my tertiary studies, I have had significant opportunities in the context of my emerging career. This includes being curated into the national graduate exhibition, 'Hatched' at the Perth Institute of Contemporary Arts [PICA] in 2022. As part of the exhibition, I was selected to undertake a one-month residency at PICA for research and the development of new work. I was also selected for 'EMERGING 2023', a biennial arts award for NSW-based artists under the age of 35 that culminated in a curated exhibition at Gosford Regional Gallery. Most recently, I presented my first solo exhibition titled 'The Library and the Cave' at Cement Fondu, that included a variety of public-facing programs and workshops.
- Additionally, I have been a finalist in the Jenny Birt Painting Prize, the Kudos Emerging Artist Award, Mosman Art Prize, Gosford Art Prize (Winner) and was selected for a four-month studio residency at the City of Sydney Creative Studios, Bathurst Street in 2022.



Remmy Faint, *Handle with Care*, foldable wood and silk screens, silk, resin and textile-based paintings and sculptures, 2023, Gosford Regional Gallery

5. Rox DeLuca

- I am a visual artist living in Bondi, on unceded Gadigal land. My art practice converts found marine and industrial single-use plastics via jewellery-like processes to explore ideas of consumption and waste. For over three decades I have exhibited in solo and group exhibitions. Recent shows include Plastic: Unwrapping the World, a collaboration between Wagga Wagga Art Gallery and Professor Gay Hawkins from the Institute for Culture and Society at Western Sydney University, and previously Material Girl, curated by Nicholas Tsoutsas for the China Cultural Centre in Sydney.
- My work is in such collections as Artbank, Deakin University, and Edith Cowan University, and private collections. I was recently awarded a Woollahra Redleaf residency in 2023 and previously have been successful in securing residencies including Gunyah and Fremantle Art Centre. I make work with plastics that I glean from my local beaches, Bondi Beach and Rose Bay Beach. The objects I make explore the materiality of weather-worn plastics and speak to the worrying proliferation of plastic pollution that our human species is generating on a global level.



6. Jacquie Meng

- My work is about redefining diasporic identities beyond national and geographical specificities, seeing it as unfixed, embodied, and entangled. I paint in a form of self-portraiture that thinks about the migration of objects and imagery between cultures and breaking down binaries of 'East' and 'West', real and imagined, human and non-human.
- My paintings assert that experiences of diaspora and self-conceptualised identity do not always appear as fixed images or traits, but as an accumulation of practices and relations. I combine private and "universal" imagery, to comment on the unfixed nature of identity. I am interested in the way that identity can be reflected beyond the body within the painting practice of portraiture: it can be revealed through objects, patterns, chance encounters, idiosyncrasies, as well as through embedded cultural and social practices. My work also considers the aesthetics of kitsch and cuteness for their abilities to break down hierarchies of thinking.
- I graduated from the ANU School of Art and Design in 2021 with First Class Honours in Visual Arts and held a studio at Australian National Capital Artists Inc (ANCA) in Canberra from 2021-2023. I have just completed two overseas artist residencies, at Kunstraum in New York (April-July) and Pilotenkueche International Art Program Leipzig (July-September). I was a recipient of the Brett Whiteley Travelling Scholarship in 2021 and a finalist in the Churchie emerging art prize and for the Schenberg Scholarship as part of Hatched National Graduate Art Show in 2022. I am represented by Stanley Street Gallery.



7. Elizabeth Day

- I have exhibited nationally and internationally, in state & public galleries. In 2024 at Wollongong City Gallery will be a co-curated exhibition Dreams Nursed in Darkness, with Claire Taylor. In 2023 I participated in The National 4 at Carriageworks with a large textile/text work. There's a Reason Beyond a Reason and Beyond that There's a Reason; recently I made Invisible Words/Invisible Worlds at a 1827 Asylum in Tasmania. My current thesis is based on the idea of the prison as a meeting of British and indigenous law and a place of research.

- I am a curator at the Boom Gate Gallery at Long Bay Gaol, currently working with Spinifex Group at Vivid to do an animated light projection involving indigenous inmates' work with their collaboration. One aspect of my work has much to do with community engagement that brings the marginal into the centre.

- I am also very much a studio artist producing work that involves a wide variety of processes and means e.g. unravelling recycled op shop garments. This sometimes results in community activity. The work is usually based in specific sites relating to Australian colonial history. I am currently engaged in two collaborative projects that look to colonial migration's ongoing violent impact on indigenous culture. The theme of narratives unspoken and covered over through shame persists in the Longford Project (with Julie Gough, Noelene Lucas, Anna Gibbs) that operates around the thesis that Australia IS a Crime Scene. The work made for The National 4 addressed transgenerational trauma.



8. Kai Wasikowski

- Kai Wasikowski is an artist based on Gadigal Land, working across photography, video and sculpture. As a child of photographers/environmentalists with British, German and Polish settler ancestry, his practice is inspired by the relationship between the natural environment and the photographic image—a preoccupation formed alongside rapidly increasing ecological degradation and technological development since his early childhood. Kai's projects have engaged predominantly with western traditions of landscape photography and its use in colonial optics, with an interest in how the camera and various spatial imaging technologies prescribe ways of seeing whilst simultaneously constructing an unseen.
- Employing elements of trompe l'oeil, various imaging technologies and printing techniques, he hopes to use photography to question western visual/political systems of knowledge, and to spark feelings of curiosity and connectedness towards the powerful lives of images. Kai received his BFA (First Class Honours with University Medal) from the University of Sydney (2016) and his MFA from the Rhode Island School of Design (2023). Wasikowski's work has been featured on the cover of Art Monthly Australasia, and written about in Artist Profile, Art Collector, VAULT Magazine & the Australian Financial Review. From 2021–23, Wasikowski was engaged to teach and run courses at the Rhode Island School of Design and continues to deliver educational workshops for both adults and children in Australia and internationally. He is a recipient of the Schenberg Art Fellowship (2017), the American Australian Association AusArt Scholarship (2020), and the Marten Bequest Scholarship (2021), offered by the Australia Council for the Arts.



9. Tarik Ahlip

- I have lived and worked on Darug and Gadigal land for most of my career as an artist. Though most of my artistic output is sculptural, recent years have seen my practice shift towards film and sound; writing (particularly verse) has been a consistent foundation to my process as an artist. My sculptural practice is driven by thorough exploration of material potential; my film practice revolves around the exploration of social themes, driven by an exploration of the cinematic potential of narrative and sensory immersion.
- Recent key achievements include the 2022 City of Parramatta Creative Fellowship Grant; the 2020 West Space Solo Commission (which was postponed to 2022 due to COVID-19 and was assisted by an Australia Council Grant for an Individual Arts Project); a recently completed two year residency at Parramatta Artists Studios, Rydalmere (2021 - 2023); selection as a finalist in the 2022 Josephine Ulrick and Win Schubert Photographic Prize.
- Recent training includes an industry intensive in lighting for cinematography at AFTRS. Recent projects include the solo presentations Paradise (West Space, 2022) and Phosphorus (Verge Gallery, 2022); SOLSTICE (2022), a video work made on the Dream Sequence.22 Residency for Urban Theatre Projects; HalfLife (2023), a video work commissioned for Fulgora, a presentation of film works curated by EO Gill as part of NAS' World Pride programme; and Orchid (2023), a spoken long-form verse work for MOUTH, a night of performance focused on the voice curated by Frances Barrett for Carriageworks.



10. Gerwyn Davies

- I am a queer artist based in Sydney working across photography, costume design, textiles and the moving image. I work as a lecturer in photomedia at the National Art School as well as UNSW (Art/ Design) where I completed a PhD exploring the aesthetics of camp and queer self-representation in 2021. Prior to this I completed a Bachelor of Photography (1st Class Hons) at the Queensland College of Art, Brisbane where I previously lectured in photography.
- Primarily my work explores photographic self-representation and the potentials of queer representational in/visibility.
- While conventionally the photographic portrait is anticipated to reveal something of a subject to a viewer, I am drawn instead to the performance of photographic dis/appearing acts. In my photographic images, my figure is routinely buried beneath costumes whose embellished surfaces mutually entice yet resist interrogation while the image terrain I manicured, foreshortened, made to emit an implausible glow. Twin states of seduction and denial that allow me to pass before the camera un/seen.
- I have been awarded the The Olive Cotton Award for Photographic Portraiture and the Clayton Utz Art Award, and have been a repeat finalist in the Sunshine Coast Art Prize, the Josephine Ulrick and Win Schubert Photography Award, the Bowness Prize, the Alice Springs Art Prize and the Brisbane Portrait Prize. My work is held in collections of MHNSW, City of Sydney, HoTA, Museum of Brisbane, Artbank, Tweed Regional Galleries, Redlands Gallery. I am represented by Jan Murphy Gallery Brisbane and Michael Reid Gallery Sydney/ Berlin.



REPORT
CM/7.2/23.12

Subject: Arts, Culture and Creativity Advisory Committee Meeting -
20 November 2023 - Minutes

TRIM No: A23/0398

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

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

RECOMMENDATION:

That Council notes the minutes of the Arts, Culture and Creativity Advisory Committee meeting held on 20 November 2023 attached to the report.

1. Executive Summary

The Arts, Culture and Creativity Advisory Committee provides input and advice to Council on arts and culture activities in Waverley and related issues. The committee first met on 20 November 2023 and the minutes of that meeting are attached to this report.

2. Introduction/Background

Council established the Arts, Culture and Creativity Advisory Committee on 4 July 2023, adopting terms of reference to guide the committee's remit and operations.

At the Council meeting on 12 September 2023, Council appointed three councillors to the Arts, Culture and Creativity Advisory Committee until 13 September 2024, as Council elections will next occur on Saturday, 14 September 2024.

At its meeting on 17 October 2023, Council appointed individual members to the committee for a term of two years, from November 2023 to October 2025.

All members were invited to the inaugural meeting of the committee, which took place on the evening of 20 November 2023 at Waverley Council Chambers.

3. Relevant Council Resolutions

| Meeting and date | Item No. | Resolution |
|----------------------------|--------------|--|
| Council 17 October 2023 | CM/7.5/23.10 | <p>That Council appoints the following individuals to the Arts, Culture and Creativity Advisory Committee for a term of two years, from November 2023 to October 2025:</p> <p>1. Members:</p> <p>(a) Aleema Ash.</p> <p>(b) Michaela Boland.</p> |

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| | | <ul style="list-style-type: none"> (c) Alex Bowen. (d) Nerida Campbell. (e) Donna Hewitt. (f) Isabel Hudson. (g) Sam Marshall. (h) Antonia Pesenti. (i) Dr Benjamin Schostakowski. |
| | | <p>2. Reserve members:</p> <ul style="list-style-type: none"> (a) Helen Vatsikopoulos. (b) Emma Pask. (c) Megan Fizell. (d) Moira Blumenthal. (e) Anne-Marie Te Whiu. |

4. Discussion

Council has recently established the Arts, Culture and Creativity Advisory Committee (ACCAC) and appointed the committee's inaugural members. The new committee met on 20 November 2023. The minutes of that meeting are attached to the report for Council's noting.

5. Financial impact statement/Time frame/Consultation

The operation and administration of the ACCAC are covered in Council's operational budget. The minutes will be placed on Council's website.

6. Conclusion

This report provides the minutes of the ACCAC meeting held on 20 November 2023 for Council's noting.

7. Attachments

1. Arts, Culture and Creativity Advisory Committee - 20 November 2023 - Minutes [↓](#) .



| | | | |
|---|---------------------|---|-----------------------------------|
| MINUTES Title: Waverley Arts, Culture & Creativity Advisory Committee Location: Queens Park Room, Waverley Council Chambers | | Date: Monday 20 November 2023 | Time: 6:30pm-8.10pm |
| Participants: Mayor Cr Paula Masselos (Chair), Cr Tony Kay, Ben Thompson (Director Community, Culture & Customer Experience), Tanya Goldberg (Executive Manager Arts, Culture & Events) Michaela Boland, Alex Bowen, Nerida Campbell, Donna Hewitt, Isabell Hudson, Sam Marshall, Antonia Pesenti, Benjamin Schostakowski | | | |
| Guests: Todd Fuller (Curatorial and Gallery Assistant), Chris Bendall (Artistic Director Bondi Pavilion), Alice Farley (Acting Manager Arts and Culture), Alistair Graham (Executive Manager Community, Library & Recreation Venues) | | | |
| Apologies: Cr Elaine Keenan, Aleema Ash | | | |
| Chair: Mayor Cr Paula Masselos | | | Minute Taker: Alice Farley |
| No | Subject | Minutes | |
| 1. | Welcome & Apologies | Meeting commenced 7.07pm Mayor Cr Paula Masselos (Chair) welcomed all and delivered an Acknowledgment of Country. Apologies recorded as Cr Elaine Keenan and Aleema Ash. | |
| 2. | ACCAC establishment | Members introduced themselves, stating occupation, professional background and connections to Waverley and the arts. Tanya Goldberg explained the purpose of the committee and outlined the Terms of Reference, attendance at meetings and feedback requirements via email in between meeting dates. 2024 Meeting calendar will be confirming in the coming weeks but ACCAC regular meeting day will likely be a Wednesday. T Goldberg went through the decision-making process and conflicts of interest. Committee decisions are made by a majority and recorded in that manner. | |



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| | | <p>Conflicts of interests must be disclosed at the earliest opportunity. Conflicts can be pecuniary or non-pecuniary, significant or non-significant. Sitting on the committee means members and their immediate relatives cannot apply for any grants, opportunities or engagements with Council for the duration of the member's term. Council's Governance team can advise on conflict of interest matters.</p> <p>T Goldberg also highlighted that the committee must not speak to the media in their capacity as committee members.</p> <p>ACTION: Mayor Cr Paula Masselos asked for a fact sheet on conflict of interest to be circulated to the group. FOR NOTING: Cr Tony Kay asked for conflict of interest to be added as a standing item to the agenda.</p> |
| 3. | Arts and Culture overview | <p>T Goldberg presented on Arts and Culture department at Waverley; Waverley Council's Arts and Culture Plan 2021 – 2026, year-round programming, visual arts and public art, Bondi Festival, Bondi Pavilion creative program, sector engagement and local creative community arts development.</p> <p>Presentation summarised:</p> <ul style="list-style-type: none"> - The core music output includes the Bondi WAVE, Sunshine Singers choir, Classic Hits concerts, Live at the Pav series, courtyard music pop-up outdoor entertainment and Street Performers policy. - The Nib Literary Award is Waverley Council's annual literary prize that has support from Principal Sponsors Mark and Evette Moran and community partner Gertrude and Alice Bookstore Café. In addition to this \$40,000 national award, the team also programs literary talks throughout the year at both the Bondi Pavilion and Waverley Library. - Visual Arts portfolio is made up of the Waverley Artist Studio, Bondi Pavilion Art Gallery, Waverley Art Gallery, Bondi Story Room, Waverley Art Prize, Waverley Youth Art Prize and Public Art programs. - Bondi Festival is Council's annual winter arts festival. Held across three weeks in June, in 2023 the festival attracted over 69,000 attendees to its events and over 300,000 visitors to Bondi. - Contemporary performance programming includes theatre, family shows, comedy, and cabaret performances. - Local Creative Collaborations program – a new initiative resulting from the Arts and Culture Plan for the Waverley local creative community to connect and create at Bondi Pavilion. |



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| | | <p>Presentation also addressed some key challenges:</p> <ul style="list-style-type: none"> - Reaching and building new audiences - Launching a new venue during current cost of living crisis and changing audience behaviours across performing arts national and globally post-covid. - Balancing the program with free and low-cost events and activities with higher-priced theatre programming and investing in new works and programs. - Growing our resource base through sponsorship and funding opportunities. <p>Committee question:</p> <ul style="list-style-type: none"> - How is First Nations work included in programming? <p>T Goldberg explained that Waverley Council works closely with the Gujaga Foundation on Indigenous projects and this year employed a First Nations producer for Bondi Festival. We are currently working with the Gujaga Foundation on some public art projects and regularly consult them and Waverley's Aboriginal & Torres Strait Islander Community Development Officer on projects and programs.</p> <p>Cr Tony Kay noted the Waverley Arts and Culture Plan 2021 – 2026 is available on the website.</p> |
| 4. | Bondi Pavilion venue update | <p>Alistair Graham gave an update on Bondi Pavilion. Bondi Pavilion has been operating for just over a year. The building contains a mix of community/cultural facilities, including multipurpose rooms, theatre, art gallery, story room, pottery/radio/music studios, courtyards, bar, balcony, public amenities, food/beverage/retail tenancies.</p> <p>A dedicated team of 13 run day-to-day operations including venue hire, operations and facilities, event planning, ticketing, production, delivery, and promotion (venue, event and precinct). Venue is open 6am to 10pm, 7 days a week.</p> <p>In addition to the Arts and Culture team, other hirers include individuals, businesses, promoters, agencies, arts organisation, non-profits and other Council department. They also manage the relationship with the Bondi Pavilion Clay Studio and Eastside Radio, both of whom were awarded the licences to operate from the Pavilion, and the three food and beverage operators – Glory Days, Surfish and Promenade.</p> <p>Since January, there have been 2,200+ bookings across the High Tide, Seagull and Ocean Rooms and the Theatre, this is very busy for a relatively small number of spaces. There's far more demand for space than space is available during peak times of early mornings and evenings during the week and on weekends. More availability during the day, although venue is attracting more meetings, conferences and planning days, which moves towards filling the gaps. Looking ahead to next</p> |



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| | | <p>year, the schedule is filling up quickly, with limited availability in some spaces at certain times, and some interesting new events under consideration.</p> <p>Committee questions:</p> <ul style="list-style-type: none"> - What are Pavilion's foot traffic numbers? A Graham confirmed Waverley is currently investigating various tracking methods. - What is the usage of the two Music Studios? A Graham confirmed that the two music studios are used consistently, with greatest use coming from the 12-week Arts and Culture program Bondi WAVE. Recordings have been conducted on a casual basis. The Music Studios will have a special open day / launch day in the new year. Members will be sent invites. <p>Ben Thompson added that the theatre is networked to the music studios and radio station so venue can live broadcast and record concerts and performances.</p> <p>Cr Paula Masselos asked if the committee members were all familiar with Bondi Pavilion.</p> <p>ACTION: Bondi Pavilion tour to be arranged for committee members who would like one, proceeding next ACCAC meeting.</p> |
| 5. | Waverley Artist Studio 2024 | <p>Todd Fuller provided background on the Waverley Artist Studio program – a competitive application process for 6 fully subsidized 12-month studio spaces at the Waverley Woollahra Art School and Bondi Pavilion. 77 artists have been through the program since it began in 2010. Studio artists work with the community and council staff including sustainability, library, seniors centre, exhibitions, sea wall, childcare and school holidays programs and festivals. Studio outcomes include exhibition (Waverley Library and Bondi Pavilion Gallery), artist talks, workshops, school holidays programs, judging (Youth Art Prize) and community engagement.</p> <p>The call for applications was conducted from August to September 2023; 62 applications were received. On 13 October 2023, a peer review panel of current studio artists reviewed the applications and selected their top 10: 6 applicants and 4 reserves.</p> <p>The committee reviewed and discussed the top 10 applications as suggested by the peer review panel.</p> <p>Nerida Campbell declared a conflict of interest; recusing herself from the discussion and voting.</p> |



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| | | <p>VOTE: The committee unanimously endorsed the panel's suggested list.</p> <p>ACTION: A report will now go to council based on this committee's recommendations of artist placements.</p> |
| 6. | General business | <p>Cr Paula Masselos invited all members to the Mayor's End of Year party on Thursday 14th December 2023, 6pm.</p> <p>ACTION: Invites will be sent to all members. Please follow the RSVP instructions on the invite.</p> <p>All members invited to the opening of the next Bondi Pavilion Gallery exhibition – Earth, Sea and Sky on 9 December 2023, 3pm. The exhibition will run until 28 January 2024.</p> <p>ACTION: Invites will be sent to all members. Please RSVP via the registration link.</p> <p>Chris Bendall informed the committee that applications are currently open for the second round of the Local Creative Collaborations EOI. The key focus of this round is to provide opportunities for creative development of new performing arts works in the Bondi Pavilion's Yalagang Room. Applications close 8 December 2023.</p> <p>ACTION: Members to inform their networks about the Local Creative Collaborations EOIs.</p> <p>Chris Bendall also invited all members to the Waverley Local Creatives End of Year Meet and Greet on Tuesday 12 December 2023, 6pm.</p> <p>ACTION: Invites will be sent to all members. Please RSVP via the registration link.</p> |
| 7. | Meeting closed | Meeting closed 8.21pm |

REPORT CM/7.3/23.12



Subject: Planning Agreement - 12 Burge Street, Vaucluse

TRIM No: SF23/4795

Manager: George Bramis, Executive Manager, Urban Planning Policy and Strategy

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

RECOMMENDATION:

That Council:

- Approves the planning agreement attached to the report applying to land at 12 Burge Street, Vaucluse, offering a total monetary contribution of \$286,560, with \$71,640 (25%) to be allocated to Waverley's Affordable Housing Program and \$214,920 (75%) to be allocated to the Clifftop Walk Upgrade at Diamond Bay and Eastern Reserve, in accordance with Council's Planning Agreement Policy.
- Authorises the Mayor and General Manager to sign and execute the agreement and affix the Council seal to the documentation.

1. Executive Summary

This report seeks Council's approval to execute the attached draft planning agreement associated with two approved modification applications at 12 Burge Street, Vaucluse. The planning agreement combines the two modifications into one agreement.

The applications were approved as follows:

Table 1. Approval details.

| Item | Approved DA-325/2020 | Approved DA-325/2020/A | Approved DA-325/2020/B |
|---|--|---|--|
| Development description | Demolition of existing building and construction of a residential flat building containing 7 units over basement carparking and strata subdivision | Modification to alter internal layout and parking bay, increase in gross floor area, changes to windows, increase in height and various other alterations | Modification to alter internal layout, increase in GFA and various other modifications |
| GFA difference from permitted to approved | 20.4 sqm GFA exceedance (2.9% variation from standard) | 76 sqm GFA increase from original DA-325/2020 (total 96.4sqm exceedance - 13.6% variation from standard) | 19.52 sqm GFA increase from DA-325/2020/A (total 115.92 sqm exceedance - 16.4% variation from standard) |
| Monetary VPA contribution | \$61,200 | \$228,000 | \$58,560 |

The draft planning agreement associated with the development application was publicly exhibited in accordance with section 7.5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

2. Introduction/Background

The draft planning agreement offers a total monetary contribution of \$286,560 in accordance with Council's Planning Agreement Policy 2014. A planning agreement for this site was previously approved and executed by Council associated with the original DA, DA-325/2020 in 2021. This planning agreement is based on two modification applications.

3. Relevant Council Resolutions

| Meeting and date | Item No. | Resolution |
|---------------------------|---------------|---|
| Council 17 August 2021 | CM/7.12/21.08 | <p>That Council:</p> <ol style="list-style-type: none"> Endorses the draft Planning Agreement attached to this report applying to land at 12 Burge Street, Vaucluse, offering a total monetary contribution of \$61,200 to go towards Waverley's Affordable Housing Program, in accordance with Council's Planning Agreement Policy 2014. Authorises the Mayor and General Manager to sign and execute the agreement and affix the Council seal to the documentation. |

4. Discussion

Section 7.4 of the EP&A Act requires that the monetary contribution from a planning agreement be allocated to a public purpose. The draft planning agreement offers a total monetary contribution of \$71,640 (25%) to go towards Waverley's Affordable Housing Program, in accordance with Council's Planning Agreement Policy 2014 and \$214,920 (75%) towards the Clifftop Walk Upgrade at Diamond Bay and Eastern Reserve.

5. Financial impact statement/Time frame/Consultation

Once the planning agreement has been executed, the applicant will be required to pay a total monetary contribution of \$286,560, in accordance with Council's Planning Agreement Policy 2014.

Public exhibition of the draft planning agreement

The draft planning agreement was drafted in accordance with section 7.5 of the EP&A Act, which requires an agreement to be exhibited for a period of 28 days. The draft planning agreement and explanatory note were exhibited from Thursday, 26 November 2023, to Thursday, 23 November 2023, and included:

- Advertising on Council's Have Your Say website.
- Email notice to Precincts and Councillors.

No submissions were received during the public exhibition period.

6. Conclusion

The draft planning agreement has been placed on exhibition in accordance with section 7.5 of the EP&A Act. It is recommended that Council approves the attached draft planning agreement for execution.

7. Attachments

1. Draft planning agreement [↓](#) .

WAVERLEY COUNCIL

(Council)

AND

**BURGE ST DEVELOPMENTS PTY LTD
(ACN 637 993 250)**

(Developer)

PLANNING AGREEMENT

(Development Contribution)

**WAVERLEY COUNCIL
Council Chambers
Cnr Bondi Road & Paul Street
BONDI JUNCTION NSW 2022
DX 12006 BONDI JUNCTION
Phone: 02 9083 8000
Facsimile: 02 9387 1820**

PLANNING AGREEMENT NO. _____***Section 7.4 of the Environmental Planning and Assessment Act, 1979*****THIS AGREEMENT** is made on

2023

PARTIES

WAVERLEY COUNCIL of Cnr Paul Street and Bondi Road, Bondi Junction NSW 2022
ABN 12 502 583 608 ("**Council**")

AND

BURGE ST DEVELOPMENTS PTY LTD (ACN 637 993 250) of Level 36, 1 Macquarie Place,
Sydney NSW 2000 ("**Developer**")

BACKGROUND/RECITALS

- A.** The Developer is the registered proprietor of the Land.
- B.** The Council is the local authority constituted under the Local Government Act 1993 and the planning and consent authority constituted under the Act.
- C.** In 2020, the Developer made a development application to Council, DA-325/2020, to carry out development on the Land. Development consent was granted in relation to that application on 24 February 2021. On 4 March 2022 a Planning Agreement was entered into between the Developer and Council and a development contribution was paid in accordance with the said development consent and Planning Agreement.
- D.** On 23 August 2021, the Developer made a further development application to Council, DA-325/2020/A, seeking to modify the original consent including, increases to gross floor area, amongst other things. The Developer subsequently made an offer to enter into this Agreement and to make a further development contribution to be applied towards a public purpose in accordance with Council's Planning Agreement Policy. Development consent was granted in relation to modification DA-325/2020/A on 21 December 2021.
- E.** On 13 February 2023, the Developer made a further development application to Council, DA-325/2020/B, seeking to further modify the consent including, further increases to gross

floor area, amongst other things. The Developer subsequently made an offer to enter into this Agreement and to make a further development contribution to be applied towards a public purpose in accordance with Council's Planning Agreement Policy. Development consent was granted in relation to modification DA-325/2020/B on 25 May 2023.

- F.** This Agreement deals with the Developer's obligations under DA-325/2020/A and DA-325/2020/B, including but not limited to, the payment of development contributions.
- G.** For the sake of clarity, this Agreement in no way impacts the Planning Agreement entered into by the Developer and Council on 4 March 2022 referred to in recital C and the development contribution paid in relation to that Planning Agreement.
- H.** This Agreement is consistent with the Developer's offers referred to in Recitals D and E to enter into this Agreement and pay two further development contribution amounts being collectively the Development Contribution herein.

OPERATIVE PROVISIONS:

1 PLANNING AGREEMENT UNDER THE ACT

The parties agree that this Agreement is a planning agreement governed by Section 7.4 and Subdivision 2 of Division 7.1 of Part 7 of the Act.

2 APPLICATION OF THIS AGREEMENT

This Agreement applies to the Land and to the Development proposed in the Development Application.

3 OPERATION OF THIS AGREEMENT

This Agreement shall take effect on and from the date of this Agreement. The parties must execute and enter into this Agreement as soon as possible after the Development Consent is granted and prior to the issue of any Construction Certificate for the Development Consent.

4 DEFINITIONS AND INTERPRETATION

4.1 Definitions

In this Agreement unless the context otherwise requires:

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

“Agreement” means this agreement;

“Bank Guarantee” means an irrevocable and unconditional undertaking by a trading bank approved by the Council to pay the Development Contribution amount on demand without an expiry or end date and containing terms and conditions acceptable to Council and in accordance with clause 9 of this Agreement;

“Business Day” means a day that is not a Saturday, Sunday or public holiday, on which banks are open for general services in Sydney, New South Wales;

“Caveat Form” means an irrevocable authority to Waverley Council to register and maintain a caveat on the Land, in a form acceptable to Council and executed by the owner of the Land, or such other form of owner’s consent to caveat as may be required by Council;

“Certifying Authority” means any accredited private certifier including where appropriate, a Principal Certifying Authority (PCA) appointed or to be appointed to certify the Development or any aspect of it;

“Council” means Waverley Council and herein includes any local government authority with which that Waverley Council may merge or any other local government authority responsible for a local government area that the Land is located within;

“Construction Certificate” means any construction certificate as referred to in s 6.4 of the Act in respect of the Development Consent;

“Development” means the development the subject of the Development Application described in item 4 of the Schedule;

“Development Application” means the development applications referred to in item 3 of the Schedule;

“Development Consent” means the development consent granted in respect of the Development Application described in item 3 of the Schedule;

“Development Contribution” means the amount of money referred to in item 5 of the Schedule;

“Development Contribution Date” means the time the Development Contribution is to be paid as specified to in item 7 of the Schedule;

“GST” has the same meaning as in the GST Law;

“GST Law” has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST;

“Land” means the land described in item 2 of the Schedule and any consolidation or subdivision thereof;

“Occupation Certificate” means any occupation certificate as referred to in s 6.4 of the Act in respect of any part of the Development or Development Consent;

“Party” means a party to this Agreement including their successors and assigns;

“Public Purpose” for the purpose of this Agreement means the public purpose described in item 6 of the Schedule;

“Registration Application” means an application for registration of this Agreement as

a planning agreement on the title of the Land pursuant to Section 7.6 of the Act in a form approved by the Registrar General;

“**Schedule**” means the schedule to this Agreement.

4.2 Interpretation

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

- (a) Headings are inserted for convenience only and do not affect the interpretation of this Agreement;
- (b) A reference in this Agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney, New South Wales;
- (c) If the day on which any act, matter or thing is to be done under this Agreement is not a business day, the act, matter or thing must be done on the next business day;
- (d) A reference in this Agreement to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars;
- (e) A reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision;
- (f) A reference in this Agreement to any agreement, Agreement or document is to that agreement, Agreement or document as amended, novated, supplemented or replaced;
- (g) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement;
- (h) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency;
- (i) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- (j) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders;
- (k) References to the word ‘include’ or ‘including’ are to be construed without limitation;
- (l) A reference to this Agreement includes the agreement recorded in this Agreement;

- (m) A reference to a party to this Agreement includes a reference to the servants, agents and contractors of the party, and the party's successors and assigns; and
- (n) Any schedules and attachments form part of this Agreement.

5 DEVELOPMENT CONTRIBUTION TO BE MADE UNDER THIS AGREEMENT

- 5.1 The Developer agrees to make, and the Council agrees to accept, the Development Contribution to be applied for the Public Purpose.
- 5.2 The Developer must pay the Development Contribution to the Council by bank cheque on or before the Development Contribution Date and time is essential in this respect.
- 5.3 Notwithstanding any other provision herein, the Development Contribution herein, is subject to increase in accordance with paragraphs 7 and 8 (as applicable for DA-325/2020/A or DA-325/202/B) of the offers made by the Developer referred to in Recitals D and E.

6 APPLICATION OF THE DEVELOPMENT CONTRIBUTION

- 6.1 The Council will apply the Development Contribution towards the Public Purpose as soon as practicable.

7 APPLICATION OF S7.11 AND S7.12 OF THE ACT TO THE DEVELOPMENT

- 7.1 This Agreement does not exclude the application of Sections 7.11, 7.12 or 7.24 of the Act to the Development.
- 7.2 The Development Contribution provided by the Developer will not be taken into consideration in determining any development contribution under Section 7.11 or 7.12 of the Act.

8 REGISTRATION OF THIS AGREEMENT

- 8.1 The Parties agree this Agreement is to be registered by the Registrar-General as provided for in section 7.6 of the Act.
- 8.2 The Developer warrants that they have done everything necessary to enable this Agreement to be registered under section 7.6 of the Act.
- 8.3 Without limiting clause 8.2, the Developer warrants that they have obtained the express written consent to the registration of this Agreement under section 7.6 of the Act from:
 - (a) If this Agreement relates to land under the *Real Property Act 1900*, each person who has an estate or interest in the Land registered under that Act; or
 - (b) If this Agreement relates to land not under the *Real Property Act 1900*, each person who is seized or in possession of an estate or interest in the Land.

- 8.4 Within 14 days of entering into this Agreement and in any event prior to the issue of any Construction Certificate, the Developer will at their cost arrange and effect registration of this Agreement under s7.6 upon the title to the Land and as soon as possible will:
- (a) deliver to the Council the Registration Application in registrable form noting the Council as applicant and executed by the owner of the Land and any other person the subject of the warranty in clause 8.3;
 - (b) provide the Council with a cheque in favour of NSW Land Registry Services, NSW for the registration fees for registration of this Agreement;
 - (c) provide the Council with a cheque in favour of the Council for its reasonable costs, expenses and fees incurred or to be incurred in connection with the preparation of this Agreement and any documents, form or instrument created or to be created in accordance with the provisions of this Agreement; and
 - (d) take any other necessary action so as to ensure this Agreement is registered on the title to the Land prior to the issue of any Construction Certificate.
- 8.5 Upon compliance with clause 8.4 by the Developer the Council will promptly lodge the Registration Application with the Registrar General.
- 8.6 The Parties will co-operate with each other to ensure that the Agreement is registered by the Registrar General.
- 8.7 Upon payment of the Development Contribution or surrender of the Development Consent, the Developer may request in writing the removal of the dealing created by registration of the Agreement from the title to the Land. The Council will not withhold its consent to such removal, provided the Developer pays all reasonable costs, expenses and fees of the Council relating to such removal.
- 8.8 Should payment of the Development Contribution or surrender of the Development Consent occur upon the date of this Agreement and prior to issue of a Construction Certificate, then there will be no obligation to register this Agreement in accordance with this clause nor provide the Bank Guarantee in accordance with clause 9.1.
- 8.9 Upon registration of this Agreement by the Registrar General, this Agreement is binding on, and is enforceable against the owner of the Land from time to time as if each owner for the time being had entered into this Agreement.

9 BANK GUARANTEE

9.1 Provision of Bank Guarantee

- (a) Subject to clause 8.8, prior to the issue of any Construction Certificate, the Developer must deliver to the Council a Bank Guarantee, which must be:
 - (i) in a form and from an institution approved by the Council;
 - (ii) irrevocable and unconditional;
 - (iii) with no expiry date;

- (iv) issued in favour of the Council;
- (v) for an amount equivalent to the Development Contribution set out in Item 5 of the Schedule;
- (vi) drafted to cover all of the Developer's obligations under this Agreement; and
- (vii) on the terms otherwise satisfactory to the Council.

- (b) The Developer acknowledges that the Council enters into this Agreement in consideration of the Developer providing the Bank Guarantee as a security for the performance of all of the Developer's obligations under this Agreement, including without limitation the delivery of the Development Contribution to Council in accordance with this Agreement.

9.2 **Calling on Bank Guarantee**

- (a) The Council may call on the Bank Guarantee in the event that the Developer:
 - (i) fails to make a payment of any part of the Development Contribution in accordance with this Agreement or any other amount payable under this Agreement by its due date for payment; or
 - (ii) breaches any other term or condition of this Agreement,and fails to remedy the relevant failure or breach within 7 days after the Council's notice.
- (b) If the Council calls on the Bank Guarantee as a result of the Developer's failure to pay any amount due under this Agreement, then the Council will apply the amount received pursuant to its claim on the Bank Guarantee towards the Developer's obligation to pay the relevant amount and will deduct that amount from the total amount payable under this Agreement. In those circumstances, the Developer will be required to pay to the Council any outstanding balance of the Development Contribution and other amounts payable under this Agreement.

9.3 **Return of Bank Guarantee**

Subject to clause 9.2, provided that the Developer has complied with its obligations under this Agreement, to pay the Development Contribution or any other amount payable under this Agreement, the Council will return the Bank Guarantee to the Developer.

10 **REVIEW OF THE AGREEMENT**

Any amendment or review of this Agreement shall be by agreement in writing and in compliance with section 7.5 of the Act.

11 DISPUTE RESOLUTION

11.1 Notice of dispute

If a Party claims that a dispute has arisen under this Agreement ("Claimant"), it must give written notice to the other Party ("Respondent") stating the matters in dispute and designating as its representative a person to negotiate the dispute ("Claim Notice").

No Party may start Court proceedings (except for proceedings seeking interlocutory relief) in respect of a dispute unless it has first complied with this clause.

11.2 Response to notice

Within ten business days of receiving the Claim Notice, the Respondent must notify the Claimant of its representative to negotiate the dispute.

11.3 The nominated representative must:

- (i) Meet to discuss the matter in good faith within five business days after services by the Respondent of notice of its representatives;
- (ii) Use reasonable endeavours to settle or resolve the dispute within 15 business days after they have met.

11.4 Further notice if not settled

If the dispute is not resolved within 15 business days after the nominated representatives have met, either Party may give to the other a written notice calling for determination of the dispute ("Dispute Notice") by mediation under clause 11.5 or by expert determination under clause 11.6.

11.5 Mediation

If a Party gives a Dispute Notice calling for the dispute to be mediated:

- (i) The Parties must agree to the terms of reference of the mediation within five business days of the receipt of the Dispute Notice (the terms shall include a requirement that the mediation rules and the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply);
- (ii) The mediator will be agreed between the Parties, or failing agreement within five business days of receipt of the Dispute Notice, either Party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) to appoint a mediator;
- (iii) The mediator appointed pursuant to this Clause 11.5 must:
 - (a) Have reasonable qualifications and practical experience in the area of disputes; and
 - (b) Have no interest or duty which conflicts or may conflict with his function as mediator, he being required to fully disclose any such interest or duty before his appointment;

- (iv) The mediator shall be required to undertake to keep confidential all matters coming to his knowledge by reason of his appointment and performance of his duties;
- (v) The Parties must within five business days of receipt of the Dispute Notice notify each other of their representatives who will be involved in the mediation;
- (vi) The Parties agree to be bound by a mediation settlement and may only initiate judicial proceedings in respect of a dispute which is the subject of a mediation settlement for the purpose of enforcing that mediation settlement;
- (vii) In relation to costs and expenses:
 - (a) Each Party will bear their own professional and expert costs incurred in connection with the mediation; and
 - (b) The cost for the mediator will be shared equally by the Parties unless the mediator determines a Party has engaged in vexatious or unconscionable behaviour in which case the mediator may require the full cost of the mediation to be borne by that Party.

11.6 Expert Determination

If the dispute is not resolved under clause 11.3 or 11.5 the dispute may, by agreement between the Parties, both acting reasonably having regard to the nature of the dispute, be resolved by expert determination, in which event:

- (i) The dispute must be determined by an independent expert in the relevant field:
 - (a) Agreed upon and appointed jointly by the Council and the Developer; or
 - (b) In the event that no agreement is reached or appointment made within 30 business days, appointed on application of a Party by the then current President of the Law Society of New South Wales;
- (ii) The expert must be appointed in writing and terms of the appointment must not be inconsistent with this clause;
- (iii) The determination of the dispute by such expert will be made as an expert and not as an arbitrator and will be in writing and containing reasons for the determination;
- (iv) The expert will determine the rules of the conduct for the process, but must conduct the process in accordance with the rules of natural justice;
- (v) Each Party will bear its own costs in connection with the process and the determination by the expert together with an equal proportion of the expert's fees and costs; and
- (vi) Any determination made by an expert pursuant to this clause is final and binding upon the Parties except where the determination is in respect of, or relates to, termination or purported termination of this Agreement by any Party, in which event the expert is deemed to be giving a non-binding appraisal and any Party may commence litigation in relation to the dispute if it has not been

resolved within 20 business days of the expert giving his or her decision.

11.7 Litigation

If the dispute is not finally resolved in accordance with this clause 11, either Party is at liberty to litigate the dispute.

11.8 Continue to Perform Obligations

Each Party must continue to perform its obligations under this Agreement, notwithstanding the existence of a dispute.

12 ENFORCEMENT

12.1 Nothing in this Agreement prevents the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Agreement (including the breach of this Agreement by the Developer) or any matter to which this Agreement relates.

12.2 Until such time as the Development Contribution has been paid in full, any Occupation Certificate must not be issued and the Developer must:

- (a) notify the Council in writing of the name and contact details of any Certifying Authority to which it has applied for an Occupation Certificate at the same time that such application is made;
- (b) at the time it lodges any application for an Occupation Certificate notify the Certifying Authority in writing of the existence and terms of this Agreement;
- (c) procure and provide to Council a written acknowledgement from the Certifying Authority addressed to Council confirming that the Certifying Authority will not issue an Occupation Certificate until Council provides written confirmation that the Development Contribution has been paid; and
- (d) not rely on any Occupation Certificate in respect to the Development.

12.3 The Developer acknowledges and agrees that:

- (a) the Land is charged with the payment to Council of the Development Contribution until the Development Contribution is paid in full to Council;
- (b) Council has a caveatable interest in the Land from the later of the date of the Development Consent and this Agreement until the Development Contribution and any other monies due to Council under this Agreement are paid in full to Council;
- (c) Council has the right to lodge and maintain a caveat against the title to the Land to notify of and protect its interest created by this Agreement (including the charge in (a), until the Development Contribution and any other monies due to Council under this Agreement are paid in full to Council;
- (d) unless the Development Contribution is paid to Council by the Developer upon

entering into this Agreement, the Developer shall provide Council with the Caveat Form; and

- (e) Upon payment of the Development Contribution or surrender of the Development Consent, the Developer may request in writing the removal of the caveat from the title to the Land. The Council will not withhold its consent to such removal, provided the Developer pays all reasonable costs, expenses and fees of the Council relating to such removal and has complied with all its obligations under this Agreement.

13 NOTICES

- 13.1 Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:
 - (a) delivered or posted to that Party at its address set out below in Item 8 of the Schedule;
 - (b) faxed to that Party at its fax number set out below in Item 8 of the Schedule;
 - (c) emailed to that Party at its email address set out below in Item 8 of the Schedule.
- 13.2 If a Party gives the other Party 3 business days' notice of a change of its address or fax number, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or faxed to the latest address or fax number.
- 13.3 Any notice, consent, information, application or request is to be treated as given or made at the following time:
 - (a) If it is delivered, when it is left at the relevant address.
 - (b) If it is sent by post, 2 business days after it is posted.
 - (c) If it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.
- 13.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

14 APPROVALS AND CONSENT

Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party. A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

15 ASSIGNMENT AND DEALINGS

Until the Development Contribution is paid in full, the Developer cannot sell, transfer, assign, novate, charge, encumber or otherwise deal with the Land or attempt or purport to do so.

16 COSTS

Council's costs of and incidental to the preparation and execution of this Agreement and any related documents and registration of same shall be borne by the Developer. The Developer shall be responsible to pay its own costs and any stamp duty arising from this Agreement or its preparation.

17 ENTIRE AGREEMENT

This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with. No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Agreement was executed, except as permitted by law.

18 FURTHER ACTS

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

19 GOVERNING LAW AND JURISDICTION

This Agreement is governed by the law of New South Wales. The Parties submit to the nonexclusive jurisdiction of its courts and courts of appeal from them. The Parties will not object to the exercise of jurisdiction by those courts on any basis.

20 JOINT AND INDIVIDUAL LIABILITY AND BENEFITS

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

21 NON FETTER

The Developer acknowledges and agrees that:

- (a) in addition to its obligations under this Agreement the Council is also responsible for the conduct and administration of local government in the Waverley Local Government Area;
- (b) this Agreement in no way affects Council's statutory obligations, functions or powers, including without limitation, its obligations, functions or powers in respect of the Development Application, Development Consent and any other approvals required in respect of the works to be carried out under the Development Consent;
- (c) nothing which the Council does or fails to do under this Agreement will limit or otherwise affect the Developer's obligations under the Development Consent; and
- (d) nothing which the Council does, fails to do or purports to do in performing the Council's statutory functions or powers will constitute or amount to a breach of this Agreement.

22 REPRESENTATIONS AND WARRANTIES

The Parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any law.

23 SEVERABILITY

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

24 MODIFICATION

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

25 WAIVER

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

waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

26 GOODS & SERVICES TAX

- 26.1 The Parties agree and acknowledge, all amounts payable by one party to the other party in relation to a supply under this Agreement have been calculated exclusive of GST which may be imposed on the supply.
- 26.2 If any supply made under this Agreement is, or becomes, subject to GST, the party to whom the supply is made ("**Recipient**") must pay to the party making the supply ("**Supplier**"), as consideration, in addition to any consideration payable or to be provided elsewhere in this Agreement, subject to issuing a Valid Tax Invoice, an additional amount on account of GST, such amount to be calculated by multiplying the consideration by the applicable rate of GST.
- 26.3 Any amount in respect of GST payable under clause 26.2 must be paid to the Supplier immediately on receipt of the Valid Tax Invoice.
- 26.4 If any party is required to reimburse or indemnify the other party for a cost or expense ("**Cost**") incurred by the other party, the amount of that Cost for the purpose of this Agreement is the amount of the Cost incurred, less the amount of any credit for, or refund of, GST, which the party incurring the Cost is entitled to claim in respect of the Cost.

27 EXECUTION IN TRIPLICATE

The Parties shall execute this Agreement in triplicate so as to provide one original signed by both parties and a further copy for registration of the Agreement under s7.6 of the Act. This Agreement will be dated on the day of execution by all Parties.

SCHEDULE

| <u>Item Number</u> | <u>Particulars</u> | <u>Description</u> |
|--------------------|---|--|
| 1 | Developer | Burge St Developments Pty Ltd (ACN 637 993 250) |
| 2 | Land | 12 Burge Street, Vaucluse NSW (1/SP14818, 2/SP14818, 3/SP14818, 4/SP14818 and CP/SP14818) |
| 3 | Development Application | DA-325/2020/A and DA-325/2020/B |
| 4 | Development (description) | Demolition of existing building and construction of a residential flat building containing six units over basement car parking and Strata Subdivision as modified to alter internal layout and parking bay, increase gross floor area, changes to windows, increase in height and various other alterations |
| 5 | Development Contribution | \$286,560 |
| 6 | Public Purpose | 25% (\$71,640) towards the Waverley Affordable Housing Program and 75% (\$214,920) towards the Clifftop Walkway Upgrade – Diamond Bay and Eastern Reserves |
| 7 | Development Contribution Date (Payment date for the Development Contribution) | Prior to the issue of any Occupation Certificate for any part of the Development or Development Consent |
| 8 | Developer Address | Level 36, 1 Macquarie Place, Sydney NSW 2000 |
| | Developer Fax | N/A |
| | Developer Email | davidd@aspirepdm.com |

| | |
|-----------------|--|
| Council Address | Corner Paul Street and Bondi Road, Bondi Junction NSW 2022 |
| Council Fax | (02) 9387 1820 |
| Council Email | info@waverley.nsw.gov.au |

DRAFT

EXECUTED by WAVERLEY COUNCIL with Common Seal of Waverley Council
affixed pursuant to a resolution of Waverley Council on

EMILY SCOTT

General Manager

CLR PAULA MASSELOS

Mayor

EXECUTED by
BURGE ST DEVELOPMENTS PTY LTD
(ACN 637 993 250)

In accordance with section 127 of the
Corporations Act 2001

DAVID DESSON

Director/Secretary

Director

**REPORT
CM/7.4/23.12**

Subject: Directions for On-Street Transit - Submission

TRIM No: A20/0076

Manager: Nikolaos Zervos, Executive Manager, Infrastructure Services

Director: Sharon Cassidy, Director, Assets and Operations

RECOMMENDATION:

That Council approves the submission to Transport for NSW attached to the report on the Directions for On-Street Transit White Paper.

1. Executive Summary

Transport for NSW released a White Paper on Directions for on-Street Transit in late October 2023. Submissions to this White Paper were required by 25 November. Council has made a draft submission (Attachment 1), to be approved by Council.

2. Introduction/Background

Transport for NSW released a White Paper on Directions for on-street Transit in late October. This White Paper articulates the role and potential of on-street transit across the Six Cities of Sydney. The scope of on-street transit is said to refer to all forms of mass transit using the street network, including light rail and buses, articulated, bi-articulated and double decker buses, standard buses and midi and mini buses.

The paper states that 'investment in on-street transit is key to improving social equity and addressing the housing deficit in our growing Cities'. However, to do so, they say, 'steps need to be taken to modernise on-street transport: Improve the reliability, frequency and legibility of service and shield buses from road congestion'.

The key challenges are seen as to be:

- Improving social equity.
- Restore reliability and increased patronage of on-street transit.
- Reconfigure how people travel on our streets – acknowledging the road network is a finite resource with multiple users which needs to be used more efficiently. More efficiently in terms of 'a dedicated transit lane can carry three times more passengers than a mixed traffic lane'.
- Plan for growth on streets designed to enable transit. The White Paper states that there is 'great potential to accommodate growth and transform urban form along upgraded on-street transit corridors' and that 'upgrading routes to Rapid...can deliver medium density housing, better amenity and the creation of strong local centres around rapid bus stops.'

The paper identifies 39 rapid bus routes in Greater Sydney. These are the top tier of the bus hierarchy and are intended to 'provide an experience as light-rail or metro; dedicated fleet, distinctive bus stops, passenger information systems, bus priority and turn-up and go services.'

The following two routes in Waverley local government area (LGA) are identified as rapid bus routes:

- Bondi Beach to Bondi Junction and the City.
- Bondi Junction to Randwick and beyond.

3. Relevant Council Resolutions

| Meeting and date | Item No. | Resolution |
|--|--------------|--|
| Strategic Planning and Development Committee 3 May 2022 | PD/5.5/22.05 | That Council endorses the submission to the NSW Parliament Bus Privatisation Inquiry attached to the report (Attachment 1). |
| Council 25 May 2021 | CM/6.2/21.05 | <p>That Council:</p> <ol style="list-style-type: none"> Notes: <ol style="list-style-type: none"> The development of Transport for NSW's new integrated transport network in Sydney's south-east, which will be introduced in late 2021. That 25 bus routes will be withdrawn, 23 bus routes will be modified and 11 new bus routes introduced. That the bus routes being cut are: 300, 301, 302, 309X, 310X, 314, 316, 317, 338, 353, 357, 372, 373, 376, 377, 391, 393, 394, 395, 400, 400N, L94, X40, X93 and X99. That the bus routes being modified are: 303, 304, 307, 309, 313, 320, 339, 339X, 343, 348, 355, 363, 362, 370, 373X, 364, 374X, 377X, 392, 397, 399, 418, 420 and 420N. That the following routes from Bondi Junction are not impacted by the changes: 200, 326, 327, 328, 333, 380, 381, 386, 387, 388. That the following routes will only have stand changes at Bondi Junction station: 328, 355, 360. That route 357 from Bondi Junction is replaced by new route 356. That route 353 from Bondi Junction is replaced by new route 350. That the promised reinstatement of the 378 did not eventuate. That these changes impact the suburbs of Waverley, Bondi Junction and Queens Park in particular. Concerns from schools in the Eastern Suburbs about |

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| | | <p>the proposed reduction in bus services coupled with the already limited service availability for local school students.</p> <ol style="list-style-type: none"> 2. Requests further information from Transport for NSW on route 389 and invites a representative to provide a Councillor briefing prior to the end of the consultation period and allowing sufficient time for a Council submission. 3. Directs the Mayor to write to the Premier for NSW, the Hon Gladys Berejiklian MP; the Minister for Transport, the Hon Andrew Constance MP; the Member for Vaucluse, the Hon Gabriel Upton MP; the Member for Coogee, Dr Marjorie O'Neill MP; and the Member for Wentworth, Dave Sharma MP: <ol style="list-style-type: none"> (a) Affirming Council's support for public transport. (b) Advising that as one of Australia's most densely populated local government areas, Waverley residents rely very heavily on, and use, public transport. (c) Acknowledging the additional frequency and services on routes 313, 352, 362, 379 and new route 390X. (d) Requesting that adequate capacity is ensured on bus routes for Waverley residents, especially at peak times. (e) Calling on Transport for NSW to consider further extending the 362 service to Edgecliff station and increasing availability year-round to provide another public transport option for visitors to and from Bondi Beach and Bondi to City commuters. 4. Makes a submission to the consultation presently being undertaken by State Transit, which closes on 18 June, advocating for the importance of public transport and requesting that adequate capacity is ensured on bus routes for Waverley residents, especially at peak times. 5. Develops and implements a communications strategy to promote this community consultation to the broader community and to the precincts as a matter of urgency. 6. Urgently requests: <ol style="list-style-type: none"> (a) That its officers be given access to the ministerial briefing papers that established the consultation, all resultant data and analysis and a statement by the State Government of its immediate intention in the |
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| | | <p>medium- to long-term for public transport in the Eastern Suburbs.</p> <p>(b) That any intended workshops with Council be undertaken as a matter of urgency.</p> |
|--|--|--|

4. Discussion

Buses are fundamental to the Waverley LGA and its liveability with its historical high density and significant cultural and recreational destinations. The area is dependent on a highly functional public transport network. The historical regions, now restructured and privatised, had the highest patronage of any region in the previous Sydney Bus network.

The goal of restoring reliability and increasing patronage is critical to Waverley, along with improving social equity for our diverse demography. Improvement to the whole bus network in Waverley is a necessary.

There are, however, significant concerns as to the capacity of our road and street network to implement these bus routes to the full level of infrastructure envisaged by Rapid Bus routes. Our roads and streets need to cater to multiple users, including cars and car parking as well as providing better capacity for people walking and people riding bikes. Our streets also need a strong focus on place in the centres, not just movement and there are limits to capacity to cater to all these demands along with an on-street upsized transit.

There are also concerns as to the intention to increase housing density to a far higher level and broader extent throughout the LGA which would need further on-going analysis and discussion.

5. Financial impact statement/Time frame/Consultation

The submission deadline, 1 December 2023, has passed. Officers have therefore submitted the draft submission, pending Council approval.

6. Conclusion

It is recommended that Council approves the submission to the Transport for NSW White Paper on Directions for On-Street Transit.

7. Attachments

1. Directions for On-Street Transit White Paper - Draft submission [↓](#) .

**Waverley Council**

PO Box 9, Bondi Junction NSW 1355

DX 12006, Bondi Junction

Customer Service Centre

55 Spring Street, Bondi Junction NSW 2022

ABN: 12 502 583 608

Our ref: A20/0076

30 November 2023

Angela Carroll
Senior Manager Communications and Engagement
Future Transport
Transport for NSW
Email futuretransport@transport.nsw.gov.au

Dear Angela

Re: Draft Submission to Transport for NSW – White Paper – Directions for On-Street Transit

Buses are fundamental to the Waverley Local Government Area (LGA) and surrounds that originally formed Region 9 of the Sydney Bus Network. The connection between public transport and the life and livability of the area is critical to the Waverley LGA.

The Waverley LGA with its historically high density and significant cultural and recreational destinations makes the area dependent upon not just basic bus services, but a highly functional public transport network to ensure that it can perform its role for both residents and broader Sydney. Historically the area has had the highest patronage of any area in the Sydney Bus network.

Waverley Council therefore supports the provision of bus routes which are frequent, on time and quickly connect local residents, workers and visitors wherever they need to go within the LGA and beyond. Waverley needs public transport to provide regional connections both east west from the beach to the Junction and City and north south to Randwick and beyond as well as fine grain local connections to local centres and destinations running throughout the residential areas.

We do support in principle, the inclusion of our two key bus routes within the context of the Rapid Bus Routes:

1. Bondi Beach to Bondi Junction and City
2. Bondi Junction to Randwick and beyond

We have significant concerns as to capacity of our road and street network to implement these Rapid Bus Routes in Waverley as described. Many of our streets and roads were laid out in the colonial period.

Numerous residential areas and village centres were developed at medium density and narrow arterial roads were often historically expanded to cater for increased traffic by

**Waverley Council**

PO Box 9, Bondi Junction NSW 1355

DX 12006, Bondi Junction

Customer Service Centre

55 Spring Street, Bondi Junction NSW 2022

ABN: 12 502 583 608

narrowing of footpaths. These footpaths are now inadequate for today's walking population. The roads were never suited to a high level of vehicle usage and while they are at capacity today, the car ownership rate is still low for Sydney. We have high levels of walking and increasing levels of cycling, both of which we continue to encourage by gradually improving streetscapes and bike paths.

There are many competing demands on our local roads and streets. They need to cater for car travel and parking, even if that can eventually be reduced. They also need for wider and more extensive footpaths for walking.

We need separate bike paths along busy trafficked roads and slowed streets on local streets. Regular and frequent bus transport is extremely important, but creating additional infrastructure on street to support this could be extremely problematic, especially if this were to be considered permanent public transport.

We are also concerned at the potential increase in density required from these Rapid Bus Routes. This would put much increased pressure on old and decaying infrastructure in need of renewal, including roads but also other services.

All these issues point to the need for a longer on-going period of discussion and debate both around the topics of appropriate strategic transport options and of strategic land use planning.

Additional concern is the issue of funding to enable councils to support on-street transit. While this is already a significant issue, this can only increase under the proposals for Rapid Bus Routes. Funding is required at least for the following:

1. Bus shelters at bus stops.
2. Requirements for TGSi at bus stops.
3. Accessible paths at bus stops.
4. Degradation of local roads due to heavy transit vehicles and the on-going burden to repair them.
5. Vibration to homes from heavy transit vehicles and consequential damage and noise.

This submission is draft as it requires confirmation, or otherwise, at the next Council meeting on 12 December 2023. The final adopted version will be provided after that meeting.

Yours sincerely

A handwritten signature in black ink that reads "Sharon Cassidy".

Sharon Cassidy,
Director, Assets and Operations

REPORT CM/7.5/23.12



Subject: Tender Evaluation - Charing Cross Streetscape Upgrade - Preliminary Electrical Works

TRIM No: SF23/3929

Manager: Robert Sabato, Executive Manager, Major Projects

Director: Sharon Cassidy, Director, Assets and Operations

RECOMMENDATION:

That Council:

1. Treats the tender evaluation attached to this report as confidential in accordance with section 11(3) of the *Local Government Act 1993*, as the evaluation relates to a matter specified in section 10A(2)(d)(i) of the *Local Government Act 1993*. The evaluation contains commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person(s) who supplied it.
2. Under clause 178(1)(a) of the *Local Government (General) Regulation 2021*, accepts the preferred tenderer [NAME TO BE INSERTED BY COUNCIL AT THE MEETING] for the supply of preliminary electrical works for the Charing Cross Streetscape Upgrade for the sum of \$[TO BE INSERTED BY COUNCIL AT THE MEETING], subject to the General Manager's determination for the project to proceed under delegation issued to the General Manager by Council at its meeting on 1 June 2021.
3. Authorises the General Manager or delegate to enter into a contract on behalf of Council with the preferred tenderer, subject to clause 2 above.
4. Notifies unsuccessful tenderers of the decision, in accordance with clause 179 of the *Local Government (General) Regulation 2021*.

1. Executive Summary

The purpose of this report is to seek Council's approval Tender Evaluation Panel's recommendation to appoint the preferred tenderer for the preliminary electrical works for the Charing Cross Streetscape Upgrade project, and for the contract to be executed under delegation.

2. Description of Service or Product being Tendered

Charing Cross is a key southern village centre within Waverley, located along a strip of Bronte Road connecting the eastern beaches, Bondi Junction, Centennial Park and the City. The centre has a diverse range of local shops and services that support the daily needs of residents, workers and visitors who frequent the area. The centre has a major 'high street' character, supporting the local commercial strip as well as a major transport route, including servicing up to six different bus routes.

The centre continues to fulfil a valuable social role and meeting place for local residents and for children attending and travelling to surrounding schools. The diverse local population also includes aged housing within the centre.

The centre is contained within an existing Heritage Conservation Area, reflecting the high heritage significance of the centre. The area maintains a two-storey character, with near-complete rows of highly intact Federation and Victorian terraces, interspersed with some examples of two-storey inter-war and Art Deco apartments. Important views of historic buildings, include those of the St Mary's Catholic Church and associated buildings (a listed State Heritage group), viewed across the community centre at 280-282 Bronte Road. Appreciation of the high heritage quality of the building stock of this area is compromised by intrusive suspended power lines.

These buildings of historic character are all of masonry construction, many with painted plaster render and highly decorative finishes. The buildings are mixed-use and maintain a consistent retail ground floor with residential upper storeys and also support awnings over the entire pavement width. Narrow passages between terraced groups give access to the rear of properties and laneways.

At present, the public domain is not particularly well defined, blurring into the adjacent residential areas. High through traffic volumes conflict with the centralised commercial nature of the space, which impacts local traffic movements causing significant congestion.

This project proposes a streetscape upgrade to the commercial precinct of Charing Cross to enhance the sense of arrival, including improved safety and convenience for active and public transport modes. It has been the recent experience of Council that during streetscape upgrades that involve the undergrounding of existing overhead Ausgrid infrastructure, the approval time frame required usually delays the nominated practical completion date of the head contractor responsible for the works. To minimise the impact of Ausgrid approval timeframe during the bulk civil construction works for the Charing Cross Streetscape Upgrade, Council is seeking to engage a head contractor to carry out the undergrounding of powerlines and communication lines that service the commercial precinct. This will allow the removal of overhead Ausgrid assets and transition to underground infrastructure before the main civil construction works commence.

3. Scope of Tender

The successful contractor will be engaged as the head contractor for the works and will be responsible for engaging all necessary subcontractors to meet the project principles and scope of works.

The scope of works involves:

- Demolition and removal/retention where possible of existing street pavement. To be reinstated upon completion of works.
- Supply and installation of all Ausgrid infrastructure required to underground the existing over-head power.
- Supply and installation of overhead service providers to underground infrastructure, i.e., Optus, Telstra, NBN Co.
- Coordination and connection of permanently unmetered supplies (PUMs) as required, i.e., traffic lights.
- Coordination with property owners for property connection consent.
- Coordination with service provider representatives, i.e., Ausgrid, NBN, Optus, Telstra etc.
- Allowance for temporary power generation as required.
- Supply and installation of all local lighting and comms conduits and crossings to allow the commissioning of all locally owned electrical assets for installation by the civil contractor.
- Supply, installation, and eventual removal of temporary street lighting to account for the loss of public realm lighting when the overhead powerlines are decommissioned.
- Reinstatement of retained street pavement material on appropriate bedding to ensure safety and longevity.

- Making good of any general works areas utilised for storage/compounding purposes.

4. Reason for Tender

There is no suitable panel in place for the delivery of these works, so a tender is required.

5. Relevant Council Resolutions

| Meeting and Date | Item No. | Resolution |
|--|--------------|--|
| Finance, Operations and Community Services Committee 4 April 2023 | FC/5.5/23.04 | <p>That Council:</p> <ol style="list-style-type: none"> Approves the Charing Cross Streetscape Upgrade design intent, as set out in the report, to inform the detailed design with respect to the following components: <ol style="list-style-type: none"> Selection of appropriate tree species for heritage and non-heritage building façades. Street tree and furniture locations with consideration given to the Posted Awnings Strategy. Material interpretations and treatments to acknowledge original kerb alignment within the widened footpath. Material detailing for lighting, hanging baskets and street furniture. Delegates authority to the Executive Manager, Infrastructure Services, to modify the design should design constraints and on-site circumstances warrant changes. Notes that: <ol style="list-style-type: none"> The Charing Cross Precinct Committee has been consulted in recent months, and its feedback has been considered for the development of the final detailed design. The detailed design will progress to final completion, and Council officers will proceed to advertising a tender for the project to undertake the construction works. The Review of Environmental Factors will be publicly advertised as legislatively required and then the General Manager will make a decision on the project proceeding. |

6. Discussion

Invitation to tender

A Tender Evaluation Panel was established to evaluate the tenders. The Panel consisted of:

- Nick Prell – Project Manager, Major Projects.
- Cameron Eccles – Senior Project Manager, Major Projects.
- Robbie Frawley – Acting Manager, Asset Systems and Planning – Infrastructure Services.

A tender evaluation and probity plan was developed and approved by the Evaluation Panel and Executive delegates on 16 October 2023.

Tenders were called on 18 August 2023 and closed on 25 October 2023 at 2.00 pm.

Tenders received

The following tenders were received:

- Edwards U Pty Ltd & Others (trading as Ausconnex).
- Garde Services Pty Ltd.
- Mack Civil Pty Ltd.
- Quality Management & Constructions Pty Ltd (trading as QMC Group).
- Vaughan Civil Pty Ltd.

Late tenders

Nil.

Non-conforming tenders

Nil.

Alternative tenders

Nil.

Tender evaluation

Five tenders met the mandatory requirements and proceeded to a detailed evaluation:

- Edwards U Pty Ltd & Others (trading as Ausconnex).
- Garde Services Pty Ltd.
- Mack Civil Pty Ltd.
- Quality Management & Constructions Pty Ltd (trading as QMC Group).
- Vaughan Civil Pty Ltd.

Tender evaluation

Conforming tenders were evaluated in accordance with the tender evaluation and probity plan to determine which tenders were the most advantageous.

The Evaluation Panel agreed on the following advertised selection criteria:

- Demonstrated experience and past performance on similar projects.
- Understanding of the requirement and proposed methodology.
- Key personnel, qualifications, skills and experience.
- Environmental and social sustainability.
- Proposed program.
- Attendance of online meeting.
- Price lump sum.

Tenders were given a score on each of the evaluation criteria and ranked in accordance with their scores. Final scores and rankings are shown in the confidential tender evaluation attached to the report.

The tender evaluation panel sought clarifications on the submission from Quality Management & Constructions Pty Ltd (trading as T/A QMC Group).

Evaluation Panel's recommendation

Following evaluation of the tenders, the Evaluation Panel recommends that the services offered by the preferred tenderer provides the best value to Council because the proposal placed first on the commercial evaluation criteria and placed second by two weighted evaluation points on the technical criteria, and the submission complied with the mandatory criteria.

7. Financial impact statement/Time frame/Consultation

Financial impact statement

The budget for the preliminary electrical works is from the Charing Cross Streetscape Upgrade project.

The preferred tenderer's price is included in the confidential tender evaluation attached to this report.

The total anticipated funding required for the preliminary electrical works is \$4,019,567.39 (excl. GST). The total budget allocation for the Charing Cross Streetscape Upgrade under the Long Term Financial Plan (LTFP) is \$12 million. Officers will also continue to apply for applicable grants to supplement Council's funding. There are sufficient funds to cover the price tendered by the recommended tenderer.

Time frame

It is expected that the works will commence in the early months in 2024 with an estimated completion of September 2024 based on the program provided in the tender submission of the preferred tenderer, weather pending. The program will continue to be refined between the preferred tenderer and Council officers during the preliminaries phase of the contract to ensure the works are complete as efficiently as possible.

Consultation

Extensive consultation has been undertaken throughout the development of this project internally within Council and externally within the community.

The most recent consultation on the project was via the exhibition of the Review of Environmental Factors (REF). An REF is an environmental assessment used to determine whether an activity should be approved by taking into account all matters that affect or may affect the environment.

The REF summarises all aspects of the project including, but not limited to, the following:

- Summary of the assessment of the potential environmental impacts of the project
- Analysis of the existing site and its condition.
- Objectives of the project.
- Proposed design and its key features.
- Construction methodology and execution.

Throughout the project, the following steps have been executed regarding the REF for the project:

- Draft containing all information issued to Council by head consultant of the project.
- Independent review by appropriately qualified consultant (i.e. qualified planner, or similar) of the draft undertaken to make recommendations.
- Final draft responding to independent recommendations issue to Council by head consultant of the project.
- Final draft REF 28-day exhibition period commencement for community feedback and comment. Closure on 29 November 2023.

Steps remaining in the process:

- Second independent review by qualified consultant of the community feedback and comments with recommendations made for final REF
- Final REF and decision made by the General Manager for the project to proceed.

Council officers will continue to provide regular updates and correspondence internally within Council and externally within the community with outcomes from the REF exhibition and throughout the construction period.

8. Conclusion

It is recommended that Council approve the preferred tenderer for the preliminary electrical works for the Charing Cross Streetscape Upgrade project.

9. Attachments

1. Tender evaluation (confidential) .

NOTICE OF MOTION CM/8.1/23.12



Subject: RESCISSION MOTION - PD/5.2/23.12 - Planning Proposal - Dwelling Density

TRIM No: PP-3/2023

Submitted by: Councillor Betts
Councillor Kay
Councillor Goltsman

MOTION:

That Council rescinds resolution PD/5.2/23.12 – Planning Proposal – Dwelling Density, passed at the Strategic Planning and Development Committee meeting on 5 December 2023.

Background

This matter was last considered by the Strategic Planning and Development Committee at its meeting on 5 December 2023. On 5 December 2023, Crs Betts, Kay and Goltsman submitted a notice of motion to rescind the resolution and foreshadowed the following motion:

FORESHADOWED MOTION

That Council defers this item to a Councillor briefing in early 2024 for consideration of the planning proposal and to discuss how it fits into Council's strategic vision.

BELOW IS A DRAFT MINUTE EXTRACT FROM THE STRATEGIC PLANNING AND DEVELOPMENT COMMITTEE MEETING ON 5 DECEMBER 2023:

PD/5.2/23.12 Planning Proposal - Dwelling Density (PP-3/2023)

A notice of motion to rescind this resolution has been submitted with the General Manager. The rescission motion will be considered at the Council meeting on 12 December 2023.

MOTION

Mover: Cr Masselos
Seconder: Cr Keenan

That Council:

1. Forwards the planning proposal attached to the report (Attachment 1) to prevent the loss of residential density in R3 Medium Density Residential and R4 High Density Residential zones to the Department of Planning and Environment (DPE) for Gateway determination for the purposes of public exhibition.
2. Publicly exhibits the planning proposal in accordance with any conditions of the Gateway determination that may be issued by the DPE.
3. Requests and accepts, if offered, the role of the planning proposal authority from the DPE to exercise the delegations issued by the Minister under section 3.36 of the *Environmental Planning*

and Assessment Act 1979 to amend the Waverley Local Environmental Plan 2012.

FORESHADOWED MOTION (LAPSED)

Mover: Cr Betts

That Council defers this item to a Councillor briefing in early 2024 for consideration of the planning proposal and to discuss how it fits into Council's strategic vision.

THE MOTION WAS THEN PUT AND DECLARED CARRIED.

DECISION

That Council:

1. Forwards the planning proposal attached to the report (Attachment 1) to prevent the loss of residential density in R3 Medium Density Residential and R4 High Density Residential zones to the Department of Planning and Environment (DPE) for Gateway determination for the purposes of public exhibition.
2. Publicly exhibits the planning proposal in accordance with any conditions of the Gateway determination that may be issued by the DPE.
3. Requests and accepts, if offered, the role of the planning proposal authority from the DPE to exercise the delegations issued by the Minister under section 3.36 of the *Environmental Planning and Assessment Act 1979* to amend the *Waverley Local Environmental Plan 2012*.

Division

For the Motion: Crs Fabiano, Gray, Keenan, Lewis and Masselos.

Against the Motion: Crs Betts, Burrill, Goltsman and Kay.

NOTICE OF MOTION CM/8.2/23.12



Subject: RESCISSION MOTION - CM/4.1/23.12E - CONFIDENTIAL
REPORT - Flickerfest 2024 - Financial Assistance

TRIM No: A22/0540

Submitted by: Councillor Fabiano
Councillor Lewis
Councillor Masselos
Councillor Wy Kanak

MOTION:

That Council rescinds resolution CM/4.1/23.12E – CONFIDENTIAL REPORT – Flickerfest 2024 – Financial Assistance, passed at the extraordinary Council meeting on 5 December 2023.

Background

This matter was last considered by Council at its extraordinary meeting on 5 December 2023. On 7 December 2023, Crs Fabiano, Lewis, Masselos and Wy Kanak submitted a notice of motion to rescind the resolution and foreshadowed the following motion:

FORESHADOWED MOTION

That Council:

1. Treats 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)(c) of the *Local Government Act 1993*. The report contains information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.
2. Notes that Flickerfest Pty Ltd is a for-profit enterprise.
3. In accordance with section 356 of the *Local Government Act 1993*, grants \$133,979 of in-kind support and \$38,000 in cash to Flickerfest Pty Ltd to support the cost of Flickerfest 2024.
4. Requires Flickerfest Pty Ltd to provide audited financial statements from February 2024 for any future financial assistance from Council.
5. Authorises the General Manager or delegate to execute an event licence with Flickerfest Pty Ltd to deliver Flickerfest 2024.

BELOW IS A DRAFT MINUTE EXTRACT FROM THE EXTRAORDINARY COUNCIL MEETING ON 5 DECEMBER 2023:

CM/4.1/23.12E CONFIDENTIAL REPORT - Flickerfest 2024 - Financial Assistance (A22/0540)

A notice of motion to rescind this resolution has been submitted with the General Manager. The rescission motion will be considered at the Council meeting on 12 December 2023.

MOTION

Mover: Cr Masselos
Seconder: Cr Goltsman

That Council:

1. Treats 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)(c) of the *Local Government Act 1993*. The report contains information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.
2. Notes that Flickerfest Pty Ltd is a for-profit enterprise.
3. In accordance with section 356 of the *Local Government Act 1993*, grants \$133,979 of in-kind support and \$38,000 in cash to Flickerfest Pty Ltd to support the cost of Flickerfest 2024.
1. Requires Flickerfest Pty Ltd to provide audited financial statements from February 2024 for any future financial assistance from Council.
2. Authorises the General Manager or delegate to execute an event licence with Flickerfest Pty Ltd to deliver Flickerfest 2024.

FORESHADOWED MOTION

Mover: Cr Keenan
Seconder: Cr Betts

That Council:

1. Treats 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)(c) of the *Local Government Act 1993*. The report contains information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.
2. Notes that Flickerfest Pty Ltd is a for-profit enterprise.
3. In accordance with section 356 of the *Local Government Act 1993*, grants \$29,855.50 in financial assistance to Flickerfest Pty Ltd to support the cost of Flickerfest 2024.
4. Requires Flickerfest Pty Ltd to provide audited financial statements from February 2024 for any future financial assistance from Council, as well as evidence of staff time, attendance records and correct award rates of pay.
5. Officers commence negotiations with Flickerfest Pty Ltd for a Memorandum of Understanding (MOU) as early as possible in 2024 to set the conditions of use of Bondi Pavilion and funding arrangements for the 2025 event.
6. Authorises the General Manager or delegate to execute an event licence with Flickerfest Pty Ltd to deliver Flickerfest 2024 to be held in the Pavilion theatre, which will ensure that the courtyard and Pavilion remain open to our community and visitors during the evening sessions of the Flickerfest 2024 event.

THE MOTION WAS THEN PUT AND DECLARED LOST.

THE FORESHADOWED MOTION THEN BECAME THE MOTION.

THE MOVER OF THE MOTION THEN ACCEPTED AMENDMENTS TO CLAUSE 6.

THE MOTION AS AMENDED WAS THEN PUT AND DECLARED CARRIED.

DECISION

That Council:

1. Treats 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)(c) of the *Local Government Act 1993*. The report contains information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.
2. Notes that Flickerfest Pty Ltd is a for-profit enterprise.
3. In accordance with section 356 of the *Local Government Act 1993*, grants \$29,855.50 in financial assistance to Flickerfest Pty Ltd to support the cost of Flickerfest 2024.
4. Requires Flickerfest Pty Ltd to provide audited financial statements from February 2024 for any future financial assistance from Council, as well as evidence of staff time, attendance records and correct award rates of pay.
5. Officers commence negotiations with Flickerfest Pty Ltd for a Memorandum of Understanding (MOU) as early as possible in 2024 to set the conditions of use of Bondi Pavilion and funding arrangements for the 2025 event.
6. Authorises the General Manager or delegate to execute an event licence with Flickerfest Pty Ltd to deliver Flickerfest 2024 to be held in the Pavilion theatre and overflow in the Seagull Room, which will ensure that the courtyard and Pavilion remain open to our community and visitors during the evening sessions of the Flickerfest 2024 event.

NOTICE OF MOTION CM/8.3/23.12



Subject: Wellington Street and Bondi Road, Bondi - Safety Improvements

TRIM No: A21/0430

Submitted by: Councillor Fabiano

MOTION:

That Council:

1. Notes that Transport for NSW has not made any progress with the proposal to make safety improvements at the intersection of Wellington Street and Bondi Road, Bondi.
2. Undertakes a road safety assessment as part of the Bondi Local Area Traffic Management Study to assess suitable safety upgrades at the intersection.
3. Investigates angle parking suitability in Wellington Street.

Background

Council resolved last year to not support a proposal from Transport for NSW (TfNSW) to ban the right turn out of Wellington Street onto Bondi Road. Further refinement of their proposal resulted in an endorsed position from TfNSW to proceed with banning the right turn from Bondi Road into Wellington Street.

TfNSW has not progressed with the proposal to date. Officers are working with TfNSW to determine scope and timing of the proposal.

Residents and shop owners are concerned about safety of vehicles turning out of Wellington Street, right onto Bondi Road. There have been a number of near misses outside The One That Got Away (163 Bondi Road).

Requests have been made for bollards in this location.

Given officers are currently undertaking a Local Area Traffic Study (LATM), which includes Wellington Street, it would be prudent to highlight this issue and ensure that it is included in the study. A preliminary assessment would assist with the scope of the LATM.

Officers also have the opportunity to assess parking options in Wellington Street through the LATM. Any increase in parking would be of benefit to the local shops in the vicinity.

General Manager's comment

Officers continue to work with TfNSW to seek the best possible outcomes for safety in this location. There are complexities that need to be balanced including safety, convenience, diversion routes and congestion.

Overall, however, there are improvements that can be made, and the Bondi LATM will be able to make appropriate road safety assessments to support solutions that will be presented as part of the LATM to Council and the Waverley Traffic Committee.

Sharon Cassidy
Director, Assets and Operations

NOTICE OF MOTION CM/8.4/23.12



Subject: Rising Antisemitism in Australia and Impact on the Waverley Community

TRIM No: A23/0698

Submitted by: Councillor Nemesh
Councillor Kay
Councillor Burrill
Councillor Goltsman
Councillor Betts

MOTION:

That Council:

1. Notes the endorsement and formal adoption in full of the International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism at the Council meeting in October 2021 (CM/8.4/21.10), including all IHRA examples of antisemitic behaviour in contemporary life, as an important tool in recognising and combating manifestations of antisemitism. The International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism begins as follows: 'Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.'
2. Condemns the dramatic and unprecedented increase in antisemitism occurring in Australia.
3. Condemns in the strongest terms the actions of Greens Senator Mehreen Faruqi, who endorsed an Instagram post showing her standing with a student whose placard depicted a figure placing an Israeli flag into a rubbish bin alongside the words 'keep the world clean' by captioning her post with the words 'courageous students will lead the way for justice for Palestine, even when their Labor government won't.'
4. Continues to commit to removing any antisemitic graffiti and/or posters immediately upon it being reported.
5. Gives a further \$10,000 to community services organisations to assist in providing social services to those individuals affected by the recent attacks on Israel, the ongoing hostage situation and the rising antisemitism in Australia, with the funds to be sourced from the General Manager's operational budget.
6. Writes to the NSW Jewish Board of Deputies, Multicultural NSW, the NSW Faith Affairs Council and other organisations that Council regards as appropriate to request the hosting of a forum that would seek to address rising antisemitism and commence formulation of a Waverley antisemitism strategy that could be used as a model for other local government areas.
7. Writes to the Sydney Jewish Museum to identify opportunities to partner with the Museum and to raise awareness of the increase in antisemitism.

8. Requests the General Manager to increase engagement with the NSW Police to identify Council and joint actions focusing on combating antisemitism.
9. Congratulates the NSW Premier, the Hon. Chris Minns MP, for strengthening laws in section 93Z of the *Crimes Act* originally introduced in 2018 against hate speech, threats and incitement to violence through a public act based on race, religion, sexual orientation or other characteristics.
10. Writes to the NSW Premier, the State Members for Vaucluse and Coogee, the NSW Opposition Leader and the Member for Wentworth informing them of this motion and calling for further actions at State and Federal levels against rising antisemitism.
11. Prepares a media release of this motion to be placed on Council's website.
12. Officers prepare a report for consideration by Council early in 2024 that updates the community about actions Council has already taken to combat antisemitism resulting from Council's adoption of the IHRA definition of antisemitism, the above requested actions and urgent plans to further address the matter before 30 June 2024, including consultation with the Multicultural Advisory Committee (MAC) on further actions that Council and the MAC can take to combat antisemitism and its physical and emotional impacts in our community and our schools.

Background

There has been a significant increase in antisemitism since the 7 October 2023 attack on Israel by Hamas, with examples provided within the motion.

At the time of writing, 600 hundred Australian business and community leaders had joined forces to warn against a sharp rise in antisemitism in the wake of the conflict between Israel and Hamas, with former Premiers from both sides of politics also backing the call to reject racism. The letter is being described by supporters as one of the most powerful petitions of its kind in Australian public life, highlighting the growing anxiety about antisemitism since the rally at the Opera House on 9 October. The letter cites a 482 per cent rise in antisemitic incidents over the last seven weeks, but the Executive Council of Australian Jewry believes the latest updated figures show the increase now stands at 591 per cent. This is an unprecedented increase in comparison with antisemitic incidents in a much longer timescale prior to 7 October 2023.

Examples of antisemitism occurring in Australia since 7 October include:

- Marches in Sydney calling for 'Palestine to be free from the River to the Sea', which insinuates the destruction of Israel, and people at a rally shouting 'death to the Jews; gas the Jews' on the steps of the Sydney Opera House.
- Antisemitic graffiti and postering.
- The bullying and harassment of people displaying Jewish symbols and signs, and the targeting of businesses that have a relationship with Israel.
- An inflammatory and incendiary 'bike ride for Al Quds' convoy driving from Lidcombe to Coogee.
- Unions and Members of Parliament encouraging schoolchildren to participate during schooltime in anti-Israel rallies and for teachers to wear a keffiyeh and use their classroom for one-sided advocacy.

The IHRA definition of Antisemitism was adopted by all Councillors at the October 2021 Council meeting, with the exception of one dissenting Councillor. Since that time, the Multicultural Advisory Committee (MAC) has implemented an anti-racism strategy.

Unfortunately, to date, there has been limited focus on actions to identify and combat antisemitism by the MAC. As the Council of European Union has concluded that Antisemitism has unique characteristics not readily apparent in 'racism' generally, the current persistence and significant increase of antisemitic incidents warrants a stronger response at all levels of government.

Councillors have the authority and responsibility to take action at the local level. This motion seeks support for these actions.

Council resolution from the October 2021 Council meeting

CM/8.4/21.10 – Antisemitism - Adoption of International Holocaust Remembrance Alliance Working Definition

That Council:

1. Endorses and formally adopts in full the International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism, including all IHRA examples of contemporary antisemitism (both contained in the background provided with this notice of motion) as an important tool in recognising and combating manifestations of antisemitism.
2. Calls on all Australian political parties, universities, councils, and other public bodies and organisations to also adopt the definition and use it to better understand and act against anti-Jewish hatred.
3. Where appropriate, publicises the resolution and the background provided with this notice of motion on Council's website, in social media and in the Mayor's Message and media release, and informs at least the following of the resolution and background: Woollahra, Randwick and the City of Sydney councils, the Southern Sydney Regional Organisation of Councils (SSROC), Local Government NSW (LGNSW), Council's Multicultural Advisory Committee (MAC), and the Precinct committees.
4. Officers consider how adoption of the working definition and its examples informs the development of Council's Community Strategic Plan 2022–2032 and actions in Council's Cultural Diversity Strategy 2021–2031.

Background to motion at the October 2021 Council meeting

The International Holocaust Remembrance Alliance (IHRA)

The International Holocaust Remembrance Alliance (IHRA) unites governments and experts to strengthen, advance and promote Holocaust education, research and remembrance.

IHRA was formed in 1998 and today its membership consists of 34 member countries, including Australia, each of whom recognises that international political coordination is imperative to strengthen the moral commitment of societies and to combat growing Holocaust denial and antisemitism.

The IHRA working definition of antisemitism

IHRA experts determined that in order to begin to address the problem of antisemitism, there must be clarity about what antisemitism is.

IHRA's Committee on Antisemitism and Holocaust Denial worked to build international consensus around a non-legally binding working definition of antisemitism, to help guide governments, organisations, and institutions in their efforts to identify antisemitism.

The International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism begins as follows:

‘Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.’

The IHRA definition is followed by contemporary examples that serve as illustrations of antisemitic behaviour, as follows:

‘Manifestations might include the targeting of the state of Israel, conceived as a Jewish collectivity. However, criticism of Israel similar to that leveled against any other country cannot be regarded as antisemitic. Antisemitism frequently charges Jews with conspiring to harm humanity, and it is often used to blame Jews for “why things go wrong.” It is expressed in speech, writing, visual forms and action, and employs sinister stereotypes and negative character traits.

Contemporary examples of antisemitism in public life, the media, schools, the workplace, and in the religious sphere could, taking into account the overall context, include, but are not limited to:

- *Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.*
- *Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective — such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.*
- *Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews.*
- *Denying the fact, scope, mechanisms (e.g. gas chambers) or intentionality of the genocide of the Jewish people at the hands of National Socialist Germany and its supporters and accomplices during World War II (the Holocaust).*
- *Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.*
- *Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.*
- *Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor.*
- *Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation.*
- *Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.*
- *Drawing comparisons of contemporary Israeli policy to that of the Nazis.*
- *Holding Jews collectively responsible for actions of the state of Israel.*

Antisemitic acts are criminal when they are so defined by law (for example, denial of the Holocaust or distribution of antisemitic materials in some countries).

Criminal acts are antisemitic when the targets of attacks, whether they are people or property — such as buildings, schools, places of worship and cemeteries — are selected because they are, or are perceived to be, Jewish or linked to Jews.

Antisemitic discrimination is the denial to Jews of opportunities or services available to others and is illegal in many countries.’

More than 30 countries have adopted the IHRA Working Definition of Antisemitism (as of September 2021), including: Albania, Argentina, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, France, Germany,

Greece, Guatemala, Hungary, Israel, Italy, Kosovo, Lithuania, Luxembourg, Moldova, The Netherlands, North Macedonia, Romania, Serbia, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, United Kingdom, United States, Uruguay.

Prime Minister Scott Morrison by video link to the Malmö International Forum on Holocaust Remembrance and Combating Antisemitism on 13 October 2021 announced that the Australian government 'pledges to embrace the definition of antisemitism adopted by the International Holocaust Remembrance Alliance (IHRA)'.

The Prime Minister emphasised that Australia has made this pledge 'as a people and as a nation', adding: 'Antisemitism has no place in Australia. It has no place anywhere in the world'.

It is also important to acknowledge the expression of support for the IHRA definition from the Federal Opposition Leader Anthony Albanese and Shadow Foreign Minister Penny Wong, and a great many other parliamentarians from the government and the opposition.

The definition has also been adopted by major universities including Oxford and Cambridge, by sporting associations including the English Football Association and by intergovernmental organisations.

In June 2017, the European Parliament recommended use of the Working Definition in its resolution on antisemitism.

In September 2018, UN Secretary-General António Guterres said, 'I wish to acknowledge the efforts of the 31 member countries of the International Holocaust Remembrance Alliance to agree on a common definition of antisemitism. Such a definition can serve as a basis for law enforcement, as well as preventive policies.'

Antisemitism today

Antisemitism remains a persistent feature of life for Australia's Jewish community. The Executive Council of Australian Jewry (ECAJ) recorded 331 antisemitic incidents in its 2020 report with particularly disturbing incidents occurring in schools and affecting Jewish children as young as five. The FBI has reported that 58% of all religiously motivated hate crimes in the United States targeted the Jewish community despite Jews comprising only 2% of the total population. Antisemitic incidents in the UK soared in 2021 with 639 incidents recorded in May 2021 alone.

The Executive Council of Australian Jewry (ECAJ) has recently prepared a draft paper (5 August 2021) making the case for Australia to formally adopt the International Holocaust Remembrance Alliance (IHRA) Working Definition of Antisemitism. This paper can be found at the following link:

<https://www.ecaj.org.au/wordpress/wp-content/uploads/Case-for-adoption-of-IHRA-WDAS-11-August-2021-web.pdf>

This background has been provided by Alex Ryvchin, Co-Chief Executive Officer, Executive Council of Australian Jewry (ECAJ).

General Manager's comment

If resolved by Council, officers will action the resolution accordingly.

Emily Scott
General Manager

URGENT BUSINESS
CM/10/23.12

Subject: Urgent Business

Author: Emily Scott, General Manager



In accordance with clause 9.3 of the Waverley Code of Meeting Practice, business may be considered at a meeting of Council even though due notice of the business has not been given to councillors. However, this can happen only if:

1. The business to be considered is ruled by the chair to be of great urgency on the grounds that it requires a decision by Council before the next scheduled ordinary meeting of Council, and
2. A motion is passed to have the business considered at the meeting.

Such a motion can be moved without notice.

Only the mover of the motion can speak to the motion before it is put. A motion to have urgent business transacted at the meeting requires a seconder.

For business to be considered urgent, it must require a decision by Council before the next scheduled ordinary meeting of Council.

The mover of the motion must, when speaking to the motion, explain why he or she believes it requires a decision by Council before the next scheduled ordinary meeting of Council.

CLOSED SESSION CM/11/23.12

Subject: Moving into Closed Session
Author: Emily Scott, General Manager



RECOMMENDATION:

That:

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

CM/11.1/23.12 CONFIDENTIAL REPORT - Bronte Surf Club and Community Facilities Building Upgrade - Updated Heads of Agreement

This matter is considered to be confidential in accordance with Section 10A(2)(d)(i) of the *Local Government Act*, and Council is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest as it deals with commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.

CM/11.2/23.12 CONFIDENTIAL REPORT - Tender Evaluation - Waverley Council Chambers Refurbishment

This matter is considered to be confidential in accordance with Section 10A(2)(d)(i) of the *Local Government Act*, and Council is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest as it deals with commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.

CM/11.3/23.12 CONFIDENTIAL MAYORAL MINUTE - General Manager's Annual Performance Review-

This matter is considered to be confidential in accordance with section 10A(2)(a) of the *Local Government Act*, and Council is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest as it deals with personnel matters concerning a particular individual (other than a councillor).

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

Introduction/Background

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

- (a) Personnel matters concerning particular individuals (other than councillors).
- (b) Personal hardship of any resident or ratepayer.
- (c) Information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.
- (d) Commercial information of a confidential nature that would, if disclosed:
 - (i) Prejudice the commercial position of a person who supplied it: or
 - (ii) Confer a commercial advantage on a competitor of Council;
 - (iii) Reveal a trade secret.
- (e) Information that would, if disclosed, prejudice the maintenance of law.
- (f) Matters affecting the security of Council, Councillors, Council staff and Council property.
- (g) Advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.
- (h) Information concerning the nature and location of a place or an item of Aboriginal significance on community land.
- (i) Alleged contraventions of any Code of Conduct requirements applicable under section 440.

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

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

RESUMING IN OPEN SESSION CM/12/23.12

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



RECOMMENDATION:

That Council resumes in open session.

Introduction/Background

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