



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

COUNCIL MEETING

A meeting of W A V E R L E Y C O U N C I L will be held at Waverley Council Chambers,
Cnr Paul Street and Bondi Road, Bondi Junction at:

7.00 PM, TUESDAY 19 MARCH 2024

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

Emily Scott
General Manager

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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.

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There are no questions with notice.

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There are no matters proposed to be dealt with in closed session.

12. Meeting Closure

OBITUARIES
CM/3/24.03



Subject: Obituaries
Author: Emily Scott, General Manager

W A V E R L E Y
COUNCIL

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/5.1/24.03



Subject: Confirmation of Minutes - Council Meeting - 20 February 2024

TRIM No: A23/0761

Manager: Richard Coelho, Executive Manager, Governance

RECOMMENDATION:

That the minutes of the Council meeting held on 20 February 2024 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 - 20 February 2024



**MINUTES OF THE WAVERLEY COUNCIL MEETING
HELD AT WAVERLEY COUNCIL CHAMBERS, CNR PAUL STREET AND BONDI ROAD, BONDI JUNCTION ON
TUESDAY, 20 FEBRUARY 2024**

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
Councillor Will Nemes	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 Cr Burrill who arrived at 7.03 pm during the prayer and acknowledgement of Indigenous heritage, and Cr Kay who arrived at 7.05 pm during obituaries.

At 10.36 pm, Cr Burrill left the meeting and did not return.

Crs Betts, Burrill, Kay, Nemes and Wy Kanak attended the meeting by audio-visual link.

At 9.42 pm, following the vote on item CM/8.2/24.02, the meeting adjourned for a short break.

At 9.49 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

Apologies were received from Cr Tim Murray.

2. Declarations of Pecuniary and Non-Pecuniary Interests

The Chair called for declarations of interest and the following were received:

- 2.1 Cr Wy Kanak declared a less than significant non-pecuniary interest in item CM/8.1/24.02 – Margaret Whitlam Community Room – Operations and informed the meeting that he leases property in Park Parade.
- 2.2 Cr Masselos declared a less than significant non-pecuniary interest in item CM/8.7/24.02 – Flying Foxes and Fig Trees and informed the meeting that she lives in Murray Street.
- 2.3 Cr Fabiano declared a less than significant non-pecuniary interest in item CM/8.1/24.02 – Margaret Whitlam Community Room – Operations and informed the meeting that he regularly uses the Margaret Whitlam Recreation Centre.
- 2.4 Cr Burrill declared a less than significant non-pecuniary interest in item CM/7.14/24.02 – North Bondi Shops and Bus Terminus Upgrade – Concept Design and informed the meeting that she owns property in Brighton Boulevard.

3. Obituaries

Lew Levy

Eric Gehl

John Richard Pilger

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 J Seidler – CM/8.5/24.02 – Barracluff Park – Acoustic Impacts.
- 4.2 L Pozniak – CM/8.7/24.02 – Flying Foxes and Fig Trees.
- 4.3 R Kassel – CM/8.7/24.02 – Flying Foxes and Fig Trees.
- 4.4 G Boreland – CM/8.7/24.02 - Flying Foxes and Fig Trees.
- 4.5 L Kitay – CM/8.7/24.02 – Flying Foxes and Fig Trees.
- 4.6 E Leopold (on behalf of WIRES) – CM/8.7/24.02 – Flying Foxes and Fig Trees.
- 4.7 T Clee – CM/8.12/24.02 – Bondi Junction Commercial Centre – Late Night Trading Hours.
- 4.8 S Hrovatin – CM/8.4/24.02 – Park Bench on Grass Verge at 69 Read Street, Bronte.
- 4.9 A Cameron – CM/11.1/24.02 – Laneway between Dickson Lane and Belgrave Street, Bronte –Update.
- 4.10 C Pagliaro – CM/7.11/24.02 – NSW Housing Reform – Submission.
- 4.11 B Mouroukas (on behalf of Bondi Heights Precinct) – CM/8.1/24.02 – Margaret Whitlam Community Room – Operations.

ITEMS BY EXCEPTION**MOTION / UNANIMOUS DECISION**

Mover: Cr Masselos

Seconder: Cr Lewis

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 – 12 December 2023.
- CM/5.2/24.02 Adoption of Minutes – Waverley Traffic Committee Meeting – 1 February 2024.
- CM/7.1/24.02 Delivery Program 2022-26 – Six-Monthly Progress Report.
- CM/7.2/24.02 Quarterly Budget Review (Q2) – December 2023.
- CM/7.3/24.02 Investment Portfolio Report – November 2023.
- CM/7.4/24.02 Investment Portfolio Report – December 2023.
- CM/7.5/24.02 Investment Portfolio Report – January 2024.
- CM/7.8/24.02 Councillor Expenses and Facilities – Six-Monthly Report.
- CM/7.9/24.02 Multicultural Advisory Committee Meeting – 2 November 2023 – Minutes.
- CM/7.10/24.02 Youth Week 2024 – Financial Assistance.

- CM/7.15/24.02 Tender Evaluation – Bondi Park – Stage 2 Electrical Upgrades.
- CM/8.8/24.02 Military Road Widening.
- CM/8.9/24.02 Weed Removal and Native Planting.
- CM/8.10/24.02 Anti-Litter Communications Campaign.

5. Confirmation and Adoption of Minutes

CM/5.1/24.02 Confirmation of Minutes - Council Meeting - 12 December 2023 (SF23/16)

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos
Seconder: Cr Lewis

That the minutes of the Council meeting held on 12 December 2023 be received and noted, and that such minutes be confirmed as a true record of the proceedings of that meeting.

CM/5.2/24.02 Adoption of Minutes - Waverley Traffic Committee Meeting - 1 February 2024 (A23/0764)

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos
Seconder: Cr Lewis

That Part 1 of the minutes of the Waverley Traffic Committee meeting held on 1 February 2024 be received and noted, and that the recommendations contained therein be adopted.

6. Mayoral Minutes

CM/6.1/24.02 CONFIDENTIAL MAYORAL MINUTE - General Manager's Annual Performance Review (P01/054)

Council dealt with this item in closed session (see CM/11.2/24.02 below).

CM/6.2/24.02 Mardi Gras Celebrations in Waverley (A23/0751)

MOTION

Mover: Cr Masselos

That Council:

1. Notes that:

- (a) Waverley Council is a Festival and Venue Partner of Sydney Mardi Gras 2024.
- (b) Council is hosting a number of official Sydney Mardi Gras events, including the Bondi Beach Party.

- (c) A mayoral reception will be held to celebrate Sydney Mardi Gras and its significance to the Waverley community.
 - (d) For the first time, Council will have a community float in the Mardi Gras Parade.
 - (e) Council looks forward to welcoming thousands of festival visitors who will also dine, shop and stay in the Bondi region.
 - (f) Council is proud of our diverse, inclusive and progressive community.
 - (g) Sydney Mardi Gras is a State-significant event supported by the NSW Government.
2. Continues to celebrate the diversity of the Waverley community and opportunities such as Mardi Gras to promote and celebrate diversity.
 3. Continues to promote Sydney Mardi Gras events in Waverley through various communications channels.

Background

Council is proud to be a Festival and Venue Partner of Sydney Mardi Gras, 16 February to 2 March 2024. Sydney Mardi Gras has a long and proud history and Council has many residents and staff who identify as LGBTQI+.

Council is hosting a number of official Sydney Mardi Gras events, including the Bondi Beach Party, Festival First Light (Welcome to Country for the festival) and many Council-produced events for the local community:

- Film screenings
- Teen Heartstopper Party.
- Rainbow Families craft.
- Bangers and Mash – A Home Cooked Variety Show.
- Mardi Gras jewellery-making.
- Embroider Your Pride.
- Rainbow Storytime.
- Drag King Bingo.
- Sunrise Service – Rise the Bondi Memorial.
- Love Netball's Mardi Gras Comp Night.
- Queer Reads.

A mayoral reception will be held to celebrate the Mardi Gras season with the attendance of the Sydney Mardi Gras CEO and many local community organisations.

For the first time, Council will be represented in the parade with local residents and staff marching up Oxford Street showing their Waverley pride.

Sydney Mardi Gras is expected to draw many thousands of attendees and is a boost to the Waverley and Greater Sydney tourism economy, with a focus on the arts, culture, and hospitality sectors. Many local businesses report a 'Mardi Gras boost' to their trading.

Bondi is synonymous with diversity, inclusion, respect, and fun and this positive perception of Waverley's local identity combined with the natural beauty of Bondi Beach is key to the Bondi Beach Party event's

prominent inclusion in the Sydney Mardi Gras program.

Sydney Mardi Gras provides Waverley the ongoing opportunity to affirm itself as the essential beachside lifestyle, dining and entertainment hub destination, as well as a 'must-stay' accommodation location for the duration of the event and will benefit of local businesses greatly.

It will showcase our newly restored Bondi Pavilion to an international audience both as venue for world-class events and as community gathering space and a place of local history and connection.

A detailed Event Management and Delivery Plan is being developed to deliver a safe event with a quality participant experience that respects the natural environment and manages any potential adverse impacts on the non-event community, as it was last year.

Council officers have done a fabulous job and I congratulate them, local community groups and Sydney Mardi Gras on their efforts for the 2024 season. Happy Mardi Gras!

THE MOVER OF THE MOTION ACCEPTED AN AMENDMENT TO CLAUSE 2.

THE MOTION AS AMENDED WAS THEN PUT AND DECLARED CARRIED.

DECISION

That Council:

1. Notes that:
 - (a) Waverley Council is a Festival and Venue Partner of Sydney Mardi Gras 2024.
 - (b) Council is hosting a number of official Sydney Mardi Gras events, including the Bondi Beach Party.
 - (c) A mayoral reception will be held to celebrate Sydney Mardi Gras and its significance to the Waverley community.
 - (d) For the first time, Council will have a community float in the Mardi Gras Parade.
 - (e) Council looks forward to welcoming thousands of festival visitors who will also dine, shop and stay in the Bondi region.
 - (f) Council is proud of our diverse, inclusive and progressive community.
 - (g) Sydney Mardi Gras is a State-significant event supported by the NSW Government.
2. Continues to celebrate the diversity of the Waverley community and opportunities such as Mardi Gras to promote and celebrate diversity in an open and inclusive manner.
3. Continues to promote Sydney Mardi Gras events in Waverley through various communications channels.

Crs Burrill and Kay were not present for the vote on this item.

7. Reports**CM/7.1/24.02 Delivery Program 2022-26 - Six-Monthly Progress Report (A22/0557)****MOTION / UNANIMOUS DECISION**

Mover: Cr Masselos

Seconder: Cr Lewis

That Council notes:

1. The progress report on the Delivery Program 2022–2026 attached to the report.
2. This is the last Six-Monthly Progress Report to the Council, and that with effect from 1 July 2024 these reports will be presented to the Audit, Risk, and Improvement Committee.

CM/7.2/24.02 Quarterly Budget Review (Q2) - December 2023 (SF23/3978)**MOTION / UNANIMOUS DECISION**

Mover: Cr Masselos

Seconder: Cr Lewis

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.

CM/7.3/24.02 Investment Portfolio Report - November 2023 (SF23/4025)**MOTION / UNANIMOUS DECISION**

Mover: Cr Masselos

Seconder: Cr Lewis

That Council:

1. Notes the Investment Summary Report for November 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/7.4/24.02 Investment Portfolio Report - December 2023 (SF23/4025)**MOTION / UNANIMOUS DECISION**

Mover: Cr Masselos

Seconder: Cr Lewis

That Council:

1. Notes the Investment Summary Report for December 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/7.5/24.02 Investment Portfolio Report - January 2024 (SF23/4025)**MOTION / UNANIMOUS DECISION**

Mover: Cr Masselos

Seconder: Cr Lewis

That Council:

1. Notes the Investment Summary Report for January 2024 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/7.6/24.02 Appointment of Chair and Deputy Chair to Committees (SF23/196)**MOTION**

Mover: Cr Lewis

Seconder: Cr Gray

That Council:

1. Appoints Cr Murray as chair of the Finance, Operations and Community Services Committee up to and including 13 September 2024.
2. Appoints Cr Lewis as deputy chair of the Finance, Operations and Community Services Committee up to and including 13 September 2024.
3. Appoints Cr Keenan as deputy chair of the Strategic Planning and Development Committee up to and including 13 September 2024.

AMENDMENT

Mover: Cr Fabiano

Seconder: Cr Wy Kanak

That the motion be amended to read as follows:

That Council:

1. Appoints Cr Wy Kanak as chair of the Finance, Operations and Community Services Committee up to and including 13 September 2024.
2. Appoints Cr Fabiano as deputy chair of the Strategic Planning and Development Committee up to and including 13 September 2024.

THE AMENDMENT WAS PUT AND DECLARED LOST.

Division

For the Amendment: Crs Fabiano and Wy Kanak.

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

THE MOTION WAS THEN PUT AND DECLARED CARRIED.

DECISION

That Council:

1. Appoints Cr Murray as chair of the Finance, Operations and Community Services Committee up to and including 13 September 2024.
2. Appoints Cr Lewis as deputy chair of the Finance, Operations and Community Services Committee up to and including 13 September 2024.
3. Appoints Cr Keenan as deputy chair of the Strategic Planning and Development Committee up to and including 13 September 2024.

Crs Fabiano and Wy Kanak were not present for the vote on this item.

CM/7.7/24.02 Australian Local Government Association - National General Assembly 2024 - Attendance and Motions (A13/0314)

MOTION

Mover: Cr Masselos

Seconder: Cr Keenan

That Council:

1. Nominates Cr Masselos and Cr Keenan and any other interested Councillors to attend the 2024 Australian Local Government Association National General Assembly to be held at the National Convention Centre in Canberra from Tuesday, 2 July, to Thursday, 4 July 2024.
2. Nominates Cr Masselos as Council's voting delegate and Cr Keenan as reserve voting delegate, if more than one Councillor is nominated to attend.
3. Meets the applicable registration fees and travel, accommodation, meal and incidental expenses, in accordance with its Councillor Expenses and Facilities Policy for those Councillors nominated to attend the Assembly.
4. Approves the attendance of the General Manager at the Assembly.
5. Considers any motions for submission to the conference at the Council meeting on 19 March 2024.

6. Cancels the meetings of the Finance, Operations and Community Services Committee and the Strategic Planning and Development Committee scheduled to be held on 2 July 2024.

THE MOVER OF THE MOTION ACCEPTED AMENDMENTS TO CLAUSE 1.

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

UNANIMOUS DECISION

That Council:

1. Nominates Crs Masselos, Keenan, Goltsman and Fabiano to attend the 2024 Australian Local Government Association National General Assembly to be held at the National Convention Centre in Canberra from Tuesday, 2 July, to Thursday, 4 July 2024.
2. Nominates Cr Masselos as Council's voting delegate and Cr Keenan as reserve voting delegate, if more than one Councillor is nominated to attend.
3. Meets the applicable registration fees and travel, accommodation, meal and incidental expenses, in accordance with its Councillor Expenses and Facilities Policy for those Councillors nominated to attend the Assembly.
4. Approves the attendance of the General Manager at the Assembly.
5. Considers any motions for submission to the conference at the Council meeting on 19 March 2024.
6. Cancels the meetings of the Finance, Operations and Community Services Committee and the Strategic Planning and Development Committee scheduled to be held on 2 July 2024.

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

CM/7.8/24.02 Councillor Expenses and Facilities - Six-Monthly Report (SF23/170)

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos
Seconder: Cr Lewis

That Council notes the six-monthly report on Councillor expenses and facilities for the period 1 July 2023 to 31 December 2023 attached to the report.

CM/7.9/24.02 Multicultural Advisory Committee Meeting - 2 November 2023 - Minutes (A23/0649)

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos
Seconder: Cr Lewis

That Council notes the minutes of the Multicultural Advisory Committee meeting held on 2 November 2023 attached to the report.

CM/7.10/24.02 Youth Week 2024 - Financial Assistance (A02/0456)**MOTION / UNANIMOUS DECISION**

Mover: Cr Masselos

Seconder: Cr Lewis

That Council, in accordance with section 356 of the *Local Government Act*, grants up to \$4,000 in financial assistance to WAYS Youth and Family to support the cost of Youth Week Activities in 2024.

CM/7.11/24.02 NSW Housing Reform - Submission (SF24/382)**MOTION**

Mover: Cr Lewis

Seconder: Cr Keenan

That Council:

1. Approves the submission to the Department of Planning Housing and Infrastructure attached to the report (Attachments 2 and 3) raising concerns with the Explanation of Intended Effect: Changes to Create Low- and Mid-Rise Housing.
2. Urgently writes to the Premier, the Hon. Chris Minns, the Hon. Paul Scully and the Hon. Penny Sharpe to:
 - (a) Raise key concerns outlined in the Council submission, including the potential substantial impacts on heritage in Waverley, the timing of exhibition and lack of genuine community and council consultation.
 - (b) Request that Heritage Conservation Areas and Heritage Items be exempt from any proposed changes, if finalised.
 - (c) Request that updated Region and City plans and any associated changes to housing targets be released before any planned reform is advanced.
 - (d) Urgently seek a meeting with the Hon. Paul Scully and the Hon. Penny Sharpe to reiterate the concerns raised.

THE MOVER OF THE MOTION ACCEPTED THE ADDITION OF NEW CLAUSES 3–5.

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

UNANIMOUS DECISION

That Council:

1. Approves the submission to the Department of Planning Housing and Infrastructure attached to the report (Attachments 2 and 3) raising concerns with the Explanation of Intended Effect: Changes to Create Low- and Mid-Rise Housing.
2. Urgently writes to the Premier, the Hon. Chris Minns, the Hon. Paul Scully and the Hon. Penny Sharpe to:
 - (a) Raise key concerns outlined in the Council submission, including the potential substantial impacts on heritage in Waverley, the timing of exhibition and lack of genuine community and

council consultation.

- (b) Request that Heritage Conservation Areas and Heritage Items be exempt from any proposed changes, if finalised.
 - (c) Request that updated Region and City plans and any associated changes to housing targets be released before any planned reform is advanced.
 - (d) Urgently seek a meeting with the Hon. Paul Scully and the Hon. Penny Sharpe to reiterate the concerns raised.
3. Notes that Waverley is the second-densest local government area in NSW and already represents the range of housing types suggested by the NSW housing reforms. Further density will significantly impact the amenity, biodiversity and tree canopy of Waverley.
 4. Calls on the NSW Government to hold a community forum/s to inform and take feedback from residents about the proposed rezoning changes.
 5. Notes that the Council's infrastructure is already at capacity, and without significant upgrades provided by the NSW government the proposed housing policies and population densities will be unable to be met. Schools, adequate hospital facilities, and stormwater and sewage capacity are currently struggling to cope.

C Pagliaro addressed the meeting.

CM/7.12/24.02 Planning Agreement - 55 Grafton Street, Bondi Junction (SF23/5349)

MOTION / DECISION

Mover: Cr Lewis
 Seconder: Cr Fabiano

That Council:

1. Approves the planning agreement attached to the report applying to land at 55 Grafton Street, Bondi Junction, offering a total monetary contribution of \$5,535,200, with \$4,151,400 (75%) to be allocated to the Oxford Street and Waverley Street Mall Renewal, Bondi Junction Complete Streets Program and Boot Factory and Mill Hill Community Centre Project, and \$1,383,800 (25%) to be allocated to Waverley's Affordable Housing Program, in accordance with Council's Planning Agreement Policy.
2. Authorises the Mayor and General Manager to sign and execute the agreement and affix the Council seal to the documentation.

Division

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

Against the Motion: Crs Keenan and Wy Kanak.

CM/7.13/24.02 Planning Agreement - 122-128 Hewlett Street, Bronte (DA-304/2022/A)**MOTION / DECISION**

Mover: Cr Lewis
Seconder: Cr Fabiano

That Council:

1. Approves 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 \$374,205 (75%) to be dedicated to the Bronte Park Plan of Management and \$124,735 (25%) to be allocated to Waverley's Affordable Housing Program, in accordance with Council's Planning Agreement Policy.
2. Authorises the Mayor and General Manager to sign and execute the agreement and affix the Council seal to the documentation.

Division

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

Against the Motion: Crs Keenan and Wy Kanak.

CM/7.14/24.02 North Bondi Shops and Bus Terminus Upgrade - Concept Design (SF24/441)

Cr Burrill declared a less than significant non-pecuniary interest in this item and informed the meeting that she owns property in Brighton Boulevard.

MOTION

Mover: Cr Gray
Seconder: Cr Wy Kanak

That Council:

1. Publicly exhibits the concept design attached to the report for the North Bondi Shops and Bus Terminus Upgrade for 28 days.
2. Notes that:
 - (a) A community consultation report will be circulated to Councillors following the exhibition period, along with an updated concept design where relevant.
 - (b) Where a significant design change is proposed, the updated concept design will be presented to a Councillor briefing in accordance with the Councillor Engagement Process for Capital Works Projects.
 - (c) Where there is no significant design change, the project will proceed to detailed design in accordance with the Councillor Engagement Process for Capital Works Projects.

FORESHADOWED MOTION (LAPSED)

Mover: Cr Kay

That Council defers this item for officers to consider Councillor feedback, questions and alternative concepts, with a report to be prepared for Council.

THE MOTION WAS THEN PUT AND DECLARED CARRIED.

DECISION

That Council:

1. Publicly exhibits the concept design attached to the report for the North Bondi Shops and Bus Terminus Upgrade for 28 days.
2. Notes that:
 - (a) A community consultation report will be circulated to Councillors following the exhibition period, along with an updated concept design where relevant.
 - (b) Where a significant design change is proposed, the updated concept design will be presented to a Councillor briefing in accordance with the Councillor Engagement Process for Capital Works Projects.
 - (c) Where there is no significant design change, the project will proceed to detailed design in accordance with the Councillor Engagement Process for Capital Works Projects.

Division

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

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

CM/7.15/24.02 Tender Evaluation - Bondi Park - Stage 2 Electrical Upgrades (A22/0454)

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos

Secunder: Cr Lewis

That Council:

1. Treats the tender evaluation attached to 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)(i) of the *Local Government Act 1993*. The tender evaluation contains commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.
2. Declines to accept any of the tenders for construction services for the Bondi Park Stage 2 Electrical Upgrades, in accordance with section 178(1)(b) of the *Local Government (General) Regulation 2021*.
3. Declines to invite fresh tenders or applications as referred to in section 178(3)(b)–(d) of the *Local Government (General) Regulation 2021*, as Council has tested the market with an open tender process and has received unsatisfactory feedback.
4. In accordance with section 178(3)(e) of the *Local Government (General) Regulation 2021*, authorises the General Manager or delegate to enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract for the construction services, as the initial tender process did not yield suitable submissions. It is expected that negotiating with selected qualified contractors will return a competitive and favourable outcome for the construction services required.
5. Authorises the General Manager or delegate to complete negotiations and execute all necessary documentation to finalise the matter.
6. Notifies unsuccessful tenderers of the decision in accordance with section 179 of the *Local Government (General) Regulation 2021*.

8. Notices of Motions

CM/8.1/24.02 Margaret Whitlam Community Room - Operations (DA-353/2023)

Cr Wy Kanak declared a less than significant non-pecuniary interest in this item and informed the meeting that he leases property in Park Parade.

Cr Fabiano declared a less than significant non-pecuniary interest in this item and informed the meeting that he regularly uses the Margaret Whitlam Recreation Centre.

MOTION

Mover: Cr Kay
Seconder: Cr Betts

That Council:

1. Notes that DA-353/2023 was lodged on 24 November 2023 to 'formalise' the operations of the Margaret Whitlam Recreation Centre Community Room, including the use of amplified music until 1 am and bump-out until 2 am.
2. Notes significant disquiet by local residents and the Bondi Heights precinct on such concerns as:
 - (a) The DA being lodged by Milestone Town Planning as applicant on behalf of Council officers without any consideration and endorsement by the elected Council.
 - (b) The DA notification area to residents was considered inadequate.
 - (c) The DA being assessed by Council officers as a 'minor DA' rather than by an external planning consultant that would generally be used when Council lodges a DA for its own property.
 - (d) The change of use for the community room and intensification of its use, noting that the Waverley Park Plan of Management 2023 shows no support for evening and late-night social use as proposed by the DA.
 - (e) The proposals for amplified sound, operational timing and hours for permitted alcohol consumption.
 - (f) The impact on current on-street parking occupancy due to up to 120 patrons attending each event.
3. Withdraws DA-353/2023 so that a report can be prepared for Council consideration of the assessment process and merits of the proposal in respect to the concerns raised by the local community.

THE MOTION WAS PUT AND DECLARED LOST.

Division

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

Against the Motion: Crs Gray, Fabiano, Keenan, Lewis, Masselos and Wy Kanak.

B Mouroukas (on behalf of Bondi Heights Precinct) addressed the meeting.

CM/8.2/24.02 Complying Development Certificates - Notification (A11/0500)**MOTION**

Mover: Cr Nemesh

Seconder: Cr Kay

That Council:

1. Notes that under the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation), a complying development certificate (CDC) in NSW is only notified to the occupier (but not the owner) of a neighbouring property if the development at the subject site is to be carried out on a lot that has boundary within 20 metres of a boundary of another lot on which a dwelling is located.
2. Further notes that a certifier can issue a CDC from 14 days after the notification period, but such notification does not contain the plans or designs of the CDC.
3. Writes to the Minister for Planning and Public Spaces, The Hon. Paul Scully MP, requesting the following changes to the EP&A Regulation:
 - (a) All metropolitan CDCs be notified to the occupier and owner of neighbouring lots within 40 metres of the boundary of the proposed development lot.
 - (b) All CDC notifications contain the plans and/or the design of the CDC.
 - (c) All CDC plans and/or designs be publicly available and accessible through Council's website.
4. Further writes to the Members for Vacluse and Coogee requesting that they support this motion and advocate to the Minister of Planning and Public Spaces on behalf of Council.

FORESHADOWED MOTION (WITHDRAWN)

Mover: Cr Lewis

That Council defers this item to a Councillor briefing.

THE MOVER OF THE MOTION THEN ACCEPTED AMENDMENTS TO CLAUSES 3 AND 4.

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

UNANIMOUS DECISION

That Council:

1. Notes that under the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation), a complying development certificate (CDC) in NSW is only notified to the occupier (but not the owner) of a neighbouring property if the development at the subject site is to be carried out on a lot that has boundary within 20 metres of a boundary of another lot on which a dwelling is located.
2. Further notes that a certifier can issue a CDC from 14 days after the notification period, but such notification does not contain the plans or designs of the CDC.
3. Subject to the holding of a Councillor briefing, writes to the Minister for Planning and Public Spaces, The Hon. Paul Scully MP, requesting the following changes to the EP&A Regulation:
 - (a) All metropolitan CDCs be notified to the occupier and owner of neighbouring lots within 40 metres of the boundary of the proposed development lot.

- (b) All CDC notifications contain the plans and/or the design of the CDC.
 - (c) All CDC plans and/or designs be publicly available and accessible through Council's website.
4. Subject to the holding of a Councillor briefing, further writes to the Members for Vaucluse and Coogee requesting that they support this motion and advocate to the Minister of Planning and Public Spaces on behalf of Council.

CM/8.3/24.02 Street Tree Canopy in Parking Lanes (A22/0383)

MOTION

Mover: Cr Fabiano
Seconder: Cr Wy Kanak

That Council:

1. Investigates and identifies roads and residential streets that could be favourable for canopy tree plantings in parking lanes.
2. Identifies suitable canopy tree species for Waverley's roads and residential streets, acknowledging that the ficus in Newland Street and Brisbane Street, Bondi Junction, and in Chesterfield Parade, Bronte, exhibit problems with root invasion and canopy density.
3. Officer prepare a report to Council, including the costing and benefits to the community in mitigating the adverse effects of urbanisation, such as air pollution, the heat island effect and stormwater runoff.

THE MOVER OF THE MOTION ACCEPTED THE DELETION OF CLAUSE 3.

AMENDMENT

Mover: Cr Kay
Seconder: Cr Betts

That clause 1 be deleted.

THE AMENDMENT WAS PUT AND DECLARED LOST.

Division

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

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

THE MOTION AS AMENDED WAS THEN PUT AND DECLARED CARRIED.

DECISION

That Council:

1. Investigates and identifies roads and residential streets that could be favourable for canopy tree plantings in parking lanes.
2. Identifies suitable canopy tree species for Waverley's roads and residential streets, acknowledging that the ficus in Newland Street and Brisbane Street, Bondi Junction, and in Chesterfield Parade, Bronte, exhibit problems with root invasion and canopy density.

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

CM/8.4/24.02 Park Bench on Grass Verge at 69 Read Street, Bronte (A14/0146)

MOTION

Mover: Cr Kay
Seconder: Cr Betts

That Council:

1. Acknowledges the resident emails received in support of retaining the park bench on the grass verge outside 69 Read Street, Bronte, and close to a Council-approved raised verge garden.
2. Officers conduct a survey of local Read Street residents (a minimum of 20 properties) to determine whether there is sufficient support to:
 - (a) Keep the park bench in its existing location.
 - (b) Relocate it to another location.
 - (d) Replace it with a semi-permanent park bench that satisfies Council's Public Domain Technical Manual.
 - (d) Remove it from the public domain.
3. Officers leave the park bench in place until Council has:
 - (a) Received a report to consider the results of the survey, any issues that would inform a decision on the matter and the Council officers' recommendation.
 - (b) Determined the outcome for the park bench.

AMENDMENT

Mover: Cr Keenan
Seconder: Cr Fabiano

That:

1. Clause 1 be amended to read as follows:

'Acknowledges the resident emails received in support of retaining the park bench on the grass verge outside 69 Read Street, Bronte, and close to a Council-approved raised verge garden, and that officers leave the park bench in place.'
2. Clauses 2 and 3 be deleted.

THE AMENDMENT WAS PUT AND DECLARED CARRIED.

THE MOTION AS AMENDED WAS THEN PUT AND DECLARED CARRIED.

DECISION

That Council acknowledges the resident emails received in support of retaining the park bench on the grass verge outside 69 Read Street, Bronte, and close to a Council-approved raised verge garden, and that

officers leave the park bench in place.

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

S Hrovatin addressed the meeting.

AT THIS STAGE IN THE PROCEEDINGS, A PROCEDURAL MOTION TO DEFER ITEMS 8.5, 8.6, 8.7 and 8.12 TO AN EXTRAORDINARY COUNCIL MEETING TO BE HELD ON TUESDAY, 27 FEBRUARY 2024, AT 6 PM, MOVED BY CR MASSELOS AND SECONDED BY CR LEWIS, WAS PUT AND DECLARED CARRIED.

CM/8.5/24.02 Barracluff Park - Acoustic Impacts (A06/0357)

This item was deferred to an extraordinary Council meeting to be held on 27 February 2024.

MOTION

That Council:

1. Notes the Barracluff Park playground was upgraded in 2021 with new facilities and amenities, including but not limited to new multi play equipment, hard courts, furniture, landscaping and lighting.
2. Further notes that while the park and playground is widely used by the community, the ongoing and increasing noise from the playground on neighbouring residents' amenity is unacceptable.
3. Investigates options to reduce the acoustic impacts on surrounding residents including but not limited to:
 - (a) Replacing the basketball hoop with a hoop which can be detached or is retractable.
 - (b) Installing soft material on the hard vertical walled surfaces to minimise objects being hit or bounced on that surface.
 - (c) Fencing the area around the multipurpose courts to potentially restrict access where appropriate.
 - (d) Providing additional signage that specifies when the multipurpose courts can be accessed and used.
4. Officers prepare a report to Council by April 2024 on its investigations to reduce acoustic impacts and provide options and costings.

J Seidler addressed the meeting.

CM/8.6/24.02 Strata Assistance (A24/0129)

This item was deferred to an extraordinary Council meeting to be held on 27 February 2024.

MOTION

That Council:

1. Notes that the Waverley local government area is one of the most densely populated areas within NSW with over 80% of residents living in multi-unit dwellings.
2. Investigates options to improve communication and resourcing between Council, strata managers and owners corporations (also including company title buildings and community title), including but not limited to:
 - (a) A page on Council's website dedicated to multi-unit living and in particular strata title.
 - (b) Information on how strata schemes operate.
 - (c) Educational resources dedicated to:
 - (i) Best practice waste management for multi-unit dwellings.
 - (ii) Different forms of development including renovations and when and how Council is required to be notified.
 - (iii) Issues related to compliance in particular regarding fire safety standards and parking.
 - (d) Quarterly communication between Council and strata managers who manage strata schemes within Waverley.
 - (e) A strata forum convened by Council in 2024 to:
 - (i) Better educate the public on how strata schemes operate and the role of Council.
 - (ii) Provide a platform for strata managers to engage with Council and provide feedback on issues related to strata buildings.
3. Writes to the Strata and Property Services Commissioner and the Owners Corporation Network of Australia informing them of this motion.
4. Officers prepare a report to Council by April 2024 that investigates the above options and provides costings.

CM/8.7/24.02 Flying Foxes and Fig Trees (A14/0116)

Cr Masselos declared a less than significant non-pecuniary interest in this item and informed the meeting that she lives in Murray Street.

This item was deferred to an extraordinary Council meeting to be held on 27 February 2024.

MOTION

That Council:

1. Notes the ongoing mess and safety issues, and destruction of personal property such as motor vehicles, caused by dropped berries and flying foxes (also known as fruit bats) in various locations around Waverley, in particular areas such as The Avenue, Rose Bay, and a section of Murray Street, Bronte, during the berry season from January to March each year and sometimes for a second time during the winter months.
2. Notes that residents have for many years had to ask Council to clean up The Avenue and Murray Street to address the safety and health issues arising from:
 - (a) The berries falling onto private property, our pavements and roads.
 - (b) Flying fox urine and faeces, and the detritus left behind, which may contain deadly viruses including Hendra, Nipah and Lyssa.
 - (c) The increased danger of an accident from pedestrians walking on our pavements and roads.
3. Investigates options to address these issues, including but not limited to:
 - (a) De-fruiting trees at certain times of the year.
 - (b) Removing branches and/or replacing whole trees that attract the fruit bats with a more suitable species of tree.
 - (c) Encouraging the bats to relocate through the use of ultrasonic devices
4. Officers prepare a report to Council by April 2024 with options and costings.

G Boreland, R Kassell, L Kitay, E Leopold (on behalf of WIRES) and L Pozniak addressed the meeting.

CM/8.8/24.02 Military Road Widening (A03/0506)**MOTION / UNANIMOUS DECISION**

Mover: Cr Masselos

Seconder: Cr Lewis

That Council:

1. Notes the successful widening of Military Road at identified pinch points, including Military Road at Wentworth Street, North Bondi.
2. Notes the engineering solution of constructing culverts involving new dish drains and paving for the parking of vehicles.

3. Notes that Council has already prepared concept drawings for further pinch points.
4. Investigates:
 - (a) Identifying the location of further pinch points along Military Road.
 - (b) Addressing the suitability of dish drains, parking bays and road widening at the identified pinch points.
 - (c) Summarising the crash history along Military Road.
 - (d) Giving particular consideration to those sections of Military Road between Douglas Parade and Dover Road and Blake Street and Myuna Road and Bulga Road and Kobada Road and Oceanview Avenue and Kobada Road.
 - (e) Including concept drawings at the identified pinch points identified.
5. Officers prepare a report to Council by July 2024.

CM/8.9/24.02 Weed Removal and Native Planting (A12/0117)

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos

Seconder: Cr Lewis

That Council:

1. Identifies leftover wasteland locations where weeds and rank grasses prevail and where native or indigenous planting could replace mowing or slashing or other weed management practices.
2. Investigates what resources would be required to plan and implement a program of weed and grass removal for replacement with native and indigenous plant species.
3. Officers prepare a report to Council, including the likely cost, staff training needed to implement a weed removal and native plant replacement program and engagement with interested neighbours to assist in establishment watering and ongoing weeding.

CM/8.10/24.02 Anti-Litter Communications Campaign (A18/0717)

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos

Seconder: Cr Lewis

That Council:

1. Notes:
 - (a) The excellent work of our Open Spaces teams in keeping the Waverley local government area (LGA) clean and tidy.
 - (b) The influx in visitor numbers especially during holiday periods and summer months.

- (c) The build-up of litter in garden beds, around the circumference of parks including in Bronte Cutting, and cigarette butts on the sand especially around busy visitation months.
2. Officers prepare a communications strategy that includes social media and Council's various communications panels across the LGA that:
 - (a) Drives behaviour change of people who litter.
 - (b) Develops a catchy slogan to drive home an anti-litter message.
 - (c) Uses a variety of Council-owned channels.
 - (d) Is developed in-house by appropriate council officers.
 - (e) Commences in October 2024 in preparation for the summer season.
 - (f) Becomes part of Council's ongoing core messaging hierarchy throughout the year.
3. Officers undertake a litter blitz in village centres/landscaped gardens as part of their weekly patrols.

CM/8.11/24.02 Commercial High Impact Events on Beaches (A23/0269)

Council dealt with this item in closed session.

MOTION

Mover: Cr Masselos

Seconder: Cr Keenan

That Council:

1. Notes that:
 - (a) Bondi Beach is not an event space or a venue or a brand. It is a complex, busy and iconic place that exists within a suburb where people also live and go about their lives.
 - (b) From recent community consultation, the community have very loudly told Council they do not support high-impact commercial events on the beach that include alcohol.
 - (c) The current Events Policy is due for review and renewal in late 2024/early 2025.
 - (d) Community feedback will be incorporated into the review of the Events Policy.
2. Rejects any application for high-impact events of a commercial nature that include the service of alcohol on any beach in the local government area until the completion of the next review of the Events Policy.
3. Notes for the avoidance of doubt that this does not apply to ongoing approved events such as City2Surf (and Marquee Program), Nipper and Surf Club Events, the Sydney Gay and Lesbian Mardi Gras Bondi Beach Dance Party, Sculpture by the Sea and Festival of the Winds, all of which are not commercial in nature.

THE MOVER OF THE MOTION ACCEPTED AN AMENDMENT TO CLAUSE 2.

THE MOTION AS AMENDED WAS THEN PUT AND DECLARED CARRIED.

DECISION

That Council:

1. Notes that:
 - (a) Bondi Beach is not an event space or a venue or a brand. It is a complex, busy and iconic place that exists within a suburb where people also live and go about their lives.
 - (b) From recent community consultation, the community have very loudly told Council they do not support high-impact commercial events on the beach that include alcohol.
 - (c) The current Events Policy is due for review and renewal in late 2024/early 2025.
 - (d) Community feedback will be incorporated into the review of the Events Policy.
2. Rejects any application for high-impact events of a commercial nature that include the sale and/or service of alcohol on any beach in the local government area until the completion of the next review of the Events Policy.
3. Notes for the avoidance of doubt that this does not apply to ongoing approved events such as City2Surf (and Marquee Program), Nipper and Surf Club Events, the Sydney Gay and Lesbian Mardi Gras Bondi Beach Dance Party, Sculpture by the Sea and Festival of the Winds, all of which are not commercial in nature.

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

CM/8.12/24.02 Bondi Junction Commercial Centre - Late Night Trading Hours (A16/0262)

This item was deferred to an extraordinary Council meeting to be held on 27 February 2024.

MOTION

That Council:

1. Prepares a draft amendment to part D (Commercial and Retail Development), section 1.3 (Hours of Operation) of the Waverley Development Control Plan 2022 (DCP) to amend the Bondi Junction E2 Commercial Centre zone (formerly B3 Commercial Core) to change the general base trading hours within the Oxford Street Mall precinct to 'Sunday to Saturday: 6.00 am to 3.00 am.'
2. Considers the following items in the draft amendment:
 - (a) An analysis of the Bondi Junction E2 Commercial Centre zone with particular focus on Oxford Street Mall, including:
 - (i) The existing business mix.
 - (ii) Approved trading hours.

- (iii) Number of liquor licences.
 - (iv) Outdoor dining licences.
 - (v) Number of any complaints relating to adverse impacts of late-night trading on residents.
 - (vi) Anti-social behaviour.
 - (vii) Any other relevant information including venue sound management.
- (b) Recommended boundary adjustments to limit impacts as identified above within Oxford Street Mall.
 - (c) A proposed consultation strategy to seek input from local businesses, visitors, and residents.
3. Officers prepare a report and a draft amendment to the DCP no later than April 2024 for Council to consider whether to proceed to public exhibition.

T Clee 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/11/24.02 **Closed Session**

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos

Seconder: Cr Lewis

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/11.1/24.02 CONFIDENTIAL REPORT - Laneway between Dickson Lane and Belgrave Street, Bronte - Update

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/11.2/24.02 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 particular individuals (other than councillors).

CM/8.11/24.02 Commercial High Impact Events on Beaches

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.

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 9.43 pm, Council moved into closed session.

CM/11.1/24.02 CONFIDENTIAL REPORT - Laneway between Dickson Lane and Belgrave Street, Bronte - Update (A17/0243)

MOTION / UNANIMOUS DECISION

Mover: Cr Lewis

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. Approves Option 1, as set out in the report, in relation to the laneway between Dickson Lane and Belgrave Street, Bronte.
3. Authorises the General Manager or delegate to do all things necessary to finalise the matter.

Division

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

Against the Motion: Nil.

A Cameron addressed the meeting.

CM/11.2/24.02 CONFIDENTIAL MAYORAL MINUTE - General Manager's Annual Performance Review (P01/054)

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos

That Council:

1. Treats the mayoral minute 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)(a) of the *Local Government Act 1993*. The mayoral minute contains personnel matters concerning particular individuals (other than Councillors).
2. Notes that the General Manager:
 - (a) Has shown dedication and effectiveness in setting the strategic vision for the organisation.
 - (b) Has proven effective in changing organisational culture through best practice change management strategies.
3. Increases the General Manager's total remuneration package by 4% in accordance with clause 8.3 of her contract of employment from the date of this resolution based on the following considerations:
 - (a) The General Manager's performance review was assessed as 'outcomes consistently above competent performance.'
 - (b) The 4% increase is consistent with the 2023 Local Government Award increase afforded to all Award-based staff. The Award staff also received a 0.5% increase under the Superannuation Employer Contribution as of 1 July 2023.
 - (c) The Statutory and Other Officers Remuneration Tribunal's decision 'that there will be no increase this financial year for general managers and senior staff under senior staff contract.'
4. Approves the following professional development activities for the General Manager:
 - (a) Continue to work on her strengths and address the areas for improvement, as set out in the mayoral minute.
 - (b) Continue the professional development of the Executive Leadership Team and Executive Managers Leadership Team to assist in the achieving of the approved organisational reform and change agenda.

12. Resuming in Open Session

CM/12/24.02 Resuming in Open Session

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos
Seconder: Cr Lewis

That Council resumes in open session.

At 10.33, 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 10.58 PM.

.....
SIGNED AND CONFIRMED
MAYOR
19 MARCH 2024

CONFIRMATION AND ADOPTION OF MINUTES CM/5.2/24.03



Subject: Confirmation of Minutes - Extraordinary Council Meeting -
27 February 2024

TRIM No: A23/0761

Manager: Richard Coelho, Executive Manager, Governance

RECOMMENDATION:

That the minutes of the extraordinary Council meeting held on 27 February 2024 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 - 27 February 2024



**MINUTES OF THE WAVERLEY EXTRAORDINARY COUNCIL MEETING
HELD AT WAVERLEY COUNCIL CHAMBERS, CNR PAUL STREET AND BONDI ROAD, BONDI JUNCTION ON
TUESDAY, 27 FEBRUARY 2024**

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
Councillor Tim Murray	Waverley Ward
Councillor Will Nemesh	Hunter Ward

Staff in attendance:

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

At the commencement of proceedings at 6.01 pm, those present were as listed above, with the exception of Crs Burrill and Kay who arrived at 6.02 pm during apologies and Cr Goltsman who arrived at 6.05 pm during addresses by members of the public.

Crs Betts, Burrill, Goltsman, Kay, Keenan, Murray and Nemesh 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 Dominic Wy Kanak.

2. Declarations of Pecuniary and Non-Pecuniary Interests

- 2.1 Cr Masselos declared a less than significant non-pecuniary interest in item CM/4.3/24.02E – Flying Foxes and Fig Trees and informed the meeting that she lives in Murray Street.

3. Addresses by Members of the Public

- 3.1 S Guy – CM/4.3/24.02E – Flying Foxes and Fig Trees.

4. Notices of Motions**CM/4.1/24.02E Barracluff Park - Acoustic Impacts (A06/0357)****MOTION**

Mover: Cr Nemesch

Seconder: Cr Betts

That Council:

1. Notes the Barracluff Park playground was upgraded in 2021 with new facilities and amenities, including but not limited to new multi play equipment, hard courts, furniture, landscaping and lighting.
2. Further notes that while the park and playground is widely used by the community, the ongoing and increasing noise from the playground on neighbouring residents' amenity is unacceptable.
3. Investigates options to reduce the acoustic impacts on surrounding residents including but not limited to:
 - (a) Replacing the basketball hoop with a hoop which can be detached or is retractable. An

automatic system is preferable.

- (b) Installing soft material on the hard vertical walled surfaces to minimise objects being hit or bounced on that surface.
 - (c) Fencing the area around the multipurpose courts to potentially restrict access where appropriate.
 - (d) Providing additional signage that specifies when the multipurpose courts can be accessed and used.
4. Officers prepare a report to Council by April 2024 on the investigation to reduce acoustic impacts and provide options and costings.

AMENDMENT

Mover: Cr Gray
 Seconder: Cr Lewis

That clause 4 be amended to read as follows:

‘Officers prepare a report to Council on the investigation to reduce acoustic impacts and provide options and costings.’

THE AMENDMENT WAS PUT AND DECLARED CARRIED.

THE MOVER OF THE MOTION THEN ACCEPTED AN AMENDMENT TO CLAUSE 4 SUCH THAT IT NOW READS AS FOLLOWS:

‘Officers prepare a report to Council by May 2024 on the investigation to reduce acoustic impacts and provide options and costings.’

THE MOTION AS AMENDED WAS THEN PUT AND DECLARED LOST.

Division

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

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

CM/4.2/24.02E Strata Assistance (A24/0129)

MOTION

Mover: Cr Nemesh
 Seconder: Cr Kay

That Council:

1. Notes that the Waverley local government area is one of the most densely populated areas within NSW with over 80% of residents living in multi-unit dwellings.
2. Investigates options to improve communication and resourcing between Council, strata managers and owners’ corporations (also including company title buildings and community title) including but not limited to:
 - (a) A webpage on Council’s website dedicated to multi-unit living and in particular strata title. This would be considered as part of Council’s review and update of content currently on the

Waverley website.

- (b) Information on how strata schemes operate via links to State Government sources of information.
 - (c) Educational resources dedicated to:
 - (i) Best practice waste management for multi-unit dwellings.
 - (ii) Different forms of development including renovations and when and how Council is required to be notified.
 - (iii) Issues related to compliance in particular regarding fire safety standards and parking.
 - (d) Where appropriate, communication between Council and strata managers who manage strata schemes within Waverley.
 - (e) A strata forum convened by Council in 2024 to:
 - (i) Better educate the public on how strata schemes operate and the role of Council.
 - (ii) Provide a platform for strata managers to engage with Council and provide feedback on issues related to strata buildings.
 - (iii) Commence development of a strategy and action plan for outcomes and solutions to address the issues identified.
3. Writes to the Strata and Property Services Commissioner and the Owners' Corporation Network of Australia informing them of this motion.
 4. Prepares a report to come back to Council by April 2024 which investigates the above options and provides costings.

THE MOTION WAS PUT AND DECLARED LOST.

Division

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

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

CM/4.3/24.02E Flying Foxes and Fig Trees (A14/0116)

Cr Masselos declared a less than significant non-pecuniary interest in this item and informed the meeting that she lives in Murray Street.

MOTION

Mover: Cr Nemesh

Seconder: Cr Betts

That Council:

1. Notes the ongoing mess and safety issues, and destruction of personal property such as motor vehicles, caused by dropped berries and flying foxes (also known as fruit bats) in various locations around Waverley, in particular areas such as The Avenue, Rose Bay, and a section of Murray Street,

Bronte, during the berry season from January to March each year and sometimes for a second time during the winter months.

2. Notes that residents have for many years had to ask Council to clean up The Avenue and Murray Street to address the safety and health issues arising from:
 - (a) The berries falling onto private property, our pavements and roads.
 - (b) Flying fox urine and faeces, and the detritus left behind, which may contain deadly viruses including Hendra, Nipah and Lyssa.
 - (c) The increased danger of an accident from pedestrians walking on our pavements and roads.
3. Notes Waverley's Tree Audit was completed in 2023 and includes data to enable the preparation of a Tree Replacement Strategy for when trees approach their end of life.
4. Investigates options to address these issues, including but not limited to:
 - (a) De-fruiting trees at certain times of the year.
 - (b) Removing branches and/or replacing whole trees that attract the fruit bats with a more suitable species of tree via the Tree Replacement Strategy noted above.
 - (c) Encouraging the bats to relocate through the use of ultrasonic devices.
 - (d) Preparing and promoting an education and maintenance program for residents living under fig/fruit trees and Council officers, respectively, to address health and safety concerns.
5. Officers prepare a report to Council by May 2024 with options and costings.

FORESHADOWED MOTION

Mover: Cr Burrill

That Council investigates an education program for residents living under fig/fruit trees and provides additional information about Council's management and maintenance program on cleaning the streets.

THE MOTION WAS THEN PUT AND DECLARED LOST.

THE FORESHADOWED MOTION THEN BECAME THE MOTION AND WAS MOVED AS FOLLOWS:

MOTION

Mover: Cr Burrill

Seconder: Cr Goltsman

That Council:

1. Investigates an education program for residents who have flying foxes visiting the fig/fruit trees in their street.
2. Investigates the management and maintenance program of streets with fig/fruit trees during the fruiting season to better manage cleaning the streets.

THE MOVER OF THE MOTION ACCEPTED AMENDMENTS TO CLAUSES 1 AND 2 SUCH THAT THE MOTION NOW READS AS FOLLOWS:

That Council investigates:

1. An education program for residents who have flying foxes visiting the fig/fruit trees in their street.
2. The management and maintenance program of streets with fig/fruit trees during the fruiting season to better manage cleaning the streets.

AMENDMENT

Mover: Cr Kay
 Seconder: Cr Betts

That clause 2 be amended to read as follows:

‘The management and maintenance program of streets with fig/fruit trees during the fruiting season to better manage cleaning the streets and impacts on private property.’

THE AMENDMENT WAS PUT AND DECLARED LOST.

Division

For the Amendment: Crs Betts, Kay and Nemesh.

Against the Amendment: Crs Burrill, Goltsman, Gray, Fabiano, Keenan, Lewis, Masselos and Murray.

AT THIS STAGE IN THE PROCEEDINGS, A PROCEDURAL MOTION THAT THE MOTION BE NOW PUT, MOVED BY CR MURRAY, WAS PUT AND DECLARED CARRIED.

THE MOTION AS AMENDED WAS THEN PUT AND DECLARED LOST.

Division

For the Motion: Crs Goltsman, Burrill and Kay.

Against the Motion: Crs Betts, Gray, Fabiano, Keenan, Lewis, Masselos, Murray and Nemesh.

S Guy addressed the meeting.

CM/4.4/24.02E Bondi Junction Commercial Centre - Late Night Trading Hours (A16/0262)

MOTION

Mover: Cr Masselos
 Seconder: Cr Lewis

That Council:

1. Prepares a draft amendment to part D (Commercial and Retail Development), section 1.3 (Hours of Operation) of the Waverley Development Control Plan 2022 (DCP) to amend the Bondi Junction E2 Commercial Centre zone (formerly B3 Commercial Core) to change the general base trading hours within the Oxford Street Mall precinct to ‘Sunday to Saturday: 6.00 am to 3.00 am.’
2. Considers the following items in the draft amendment:
 - (a) An analysis of the Bondi Junction E2 Commercial Centre zone with particular focus on Oxford Street Mall, including:
 - (i) The existing business mix.

- (ii) Approved trading hours.
 - (iii) Number of liquor licences.
 - (iv) Outdoor dining licences.
 - (v) Number of any complaints relating to adverse impacts of late-night trading on residents.
 - (vi) Anti-social behaviour.
 - (vii) Any other relevant information including venue sound management.
- (b) Recommended boundary adjustments to limit impacts as identified above within Oxford Street Mall.
- (c) A proposed consultation strategy to seek input from local businesses, visitors, and residents.
3. Officers prepare a report and a draft amendment to the DCP no later than April 2024 for Council to consider whether to proceed to public exhibition.

AT THIS STAGE IN THE PROCEEDINGS, A PROCEDURAL MOTION THAT THE MOTION BE NOW PUT, MOVED BY CR MURRAY, WAS PUT AND DECLARED CARRIED.

THE MOTION WAS THEN PUT AND DECLARED CARRIED UNANIMOUSLY.

UNANIMOUS DECISION

That Council:

1. Prepares a draft amendment to part D (Commercial and Retail Development), section 1.3 (Hours of Operation) of the Waverley Development Control Plan 2022 (DCP) to amend the Bondi Junction E2 Commercial Centre zone (formerly B3 Commercial Core) to change the general base trading hours within the Oxford Street Mall precinct to 'Sunday to Saturday: 6.00 am to 3.00 am.'
2. Considers the following items in the draft amendment:
 - (a) An analysis of the Bondi Junction E2 Commercial Centre zone with particular focus on Oxford Street Mall, including:
 - (i) The existing business mix.
 - (ii) Approved trading hours.
 - (iii) Number of liquor licences.
 - (iv) Outdoor dining licences.
 - (v) Number of any complaints relating to adverse impacts of late-night trading on residents.
 - (vi) Anti-social behaviour.
 - (vii) Any other relevant information including venue sound management.

- (b) Recommended boundary adjustments to limit impacts as identified above within Oxford Street Mall.
 - (c) A proposed consultation strategy to seek input from local businesses, visitors, and residents.
3. Officers prepare a report and a draft amendment to the DCP no later than April 2024 for Council to consider whether to proceed to public exhibition.

Division

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

Against the Motion: Nil.

5. Meeting Closure

THE MEETING CLOSED AT 7.30 PM.

.....
SIGNED AND CONFIRMED
MAYOR
19 MARCH 2024

CONFIRMATION AND ADOPTION OF MINUTES CM/5.3/24.03



Subject: Adoption of Minutes - Waverley Traffic Committee Meeting - 22 February 2024

TRIM No: A23/0764

Manager: Richard Coelho, Executive Manager, Governance

RECOMMENDATION:

That Part 1 of the minutes of the Waverley Traffic Committee meeting held on 22 February 2024 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 - 22 February 2024

**MINUTES OF THE WAVERLEY TRAFFIC COMMITTEE
MEETING HELD VIA VIDEO CONFERENCE ON
THURSDAY, 22 FEBRUARY 2024**



Voting Members Present:

Cr P Masselos	Waverley Council – Chair
Ms T Islam	Transport for NSW
Sgt A Leeson	NSW Police – Eastern Suburbs Police Area Command – Traffic Services
Mr P Pearce	Representing Marjorie O’Neill MP, Member for Coogee

Also Present:

Cr T Kay	Waverley Council – Deputy Chair
Mr N Zervos	Waverley Council – Executive Manager, Infrastructure Services
Mr S Mueller	Waverley Council – Manager, Integrated Transport
Mr S Samadian	Waverley Council – Manager, Asset Systems and Planning
Mr H Wu	Waverley Council – Senior Transport Planner
Mr K Magistrado	Waverley Council – Traffic Engineer

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

Apologies

Apologies were received from Mr B Gidiess (Transdev John Holland – Traffic and Events Manager) and Mr D Gojak (representing Kellie Sloane MP, Member for Vaucluse).

Declaration of Interest

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

Adoption of Previous Minutes by Council - 1 February 2024

The recommendations contained in Part 1 – Matters Proposing that Council Exercise its Delegated Functions – of the minutes of the Waverley Traffic Committee meeting held on 1 February 2024 were adopted by Council at its meeting on 20 February 2024.

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/C.02/24.02(2) 51 Llandaff Street, Bondi Junction – Construction Zone.

TC/V.01/24.02(2) 34-38 Hall Street, Bondi Beach – Construction Zone.

TC/V.02/24.02(2) 108 Ramsgate Avenue, 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.01/24.02(2) Bennett Street and Ewell Lane, Bondi - Pedestrian Safety Improvements
(A20/0069)**

COUNCIL OFFICER'S PROPOSAL:

That Council:

1. Installs a 'Give Way to Pedestrians' (R2-10) sign on the light post in Ewell Lane, Bondi, facing cars travelling westbound.
2. Installs 'piano key' line marking in Ewell Lane immediately west of the footpath at the intersection of Ewell Lane and Bennett Street.
3. Installs a speed bump in Ewell Lane immediately west of the footpath at the intersection of Ewell Lane and Bennet Street.
4. Delegates authority to the Executive Manager, Infrastructure Services, to modify the design should on-site circumstances warrant refinements.

WTC RECOMMENDATION (UNANIMOUS SUPPORT):

That the Council Officer's Proposal be adopted subject to amendments to clauses 1 and 2, the deletion of clause 3 and the addition of a new clause such that the recommendation now reads as follows:

That Council:

1. Installs a stop sign, associated stop line and a caution/beware pedestrian sign on the light post in Ewell Lane, Bondi, facing cars travelling westbound.
2. Installs 'piano key' line marking in Ewell Lane immediately east of the footpath at the intersection of Ewell Lane and Bennett Street.

3. Investigates reversing the traffic movement in Ewell Lane to eastbound, and then, if this reversal is supported by officers, considers pedestrian safety improvements at the intersection of Ewell Lane and Ocean Street, with a further report to be prepared for the Traffic Committee.
4. Delegates authority to the Executive Manager, Infrastructure Services, to modify the design should on-site circumstances warrant refinements.

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

TC/C.02/24.02(2) 51 Llandaff Street, Bondi Junction - Construction Zone (A03/2514-04)

COUNCIL OFFICER'S PROPOSAL:

That Council:

1. Installs a 9 metre 'No Parking, 7 am–5 pm Mon–Fri, 8 am–3 pm Sat, Council Authorised Vehicles Excepted' construction zone in front of 51 Llandaff Street, Bondi Junction.
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/V STATE ELECTORATE OF VAUCLUSE

TC/V.01/24.02(2) 34-38 Hall Street, Bondi Beach - Construction Zone (A03/2514-04)

COUNCIL OFFICER'S PROPOSAL:

That Council:

1. Installs a 22 metre 'No Parking, 7 am–5 pm Mon–Fri, 8 am–3 pm Sat, Council Authorised Vehicles Excepted' construction zone in front of 34–38 Hall Street, 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: NSW Police representative, TfNSW representative and Waverley Council representative (Chair).

TC/V.02/24.02(2) 108 Ramsgate Avenue, Bondi Beach - Construction Zone (A03/2514-04)

COUNCIL OFFICER'S PROPOSAL:

That Council:

1. Installs a 13.7 metre 'No Parking, 7 am–5 pm Mon–Fri, 8 am–3 pm Sat, Council Authorised Vehicles Excepted' construction zone in front of 108 Ramsgate Avenue, 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: NSW Police representative, TfNSW representative and Waverley Council representative (Chair).

TC/CV ELECTORATES OF COOGEE AND VAUCLUSE

Nil.

MAYORAL MINUTES CM/6/24.03



Subject: Mayoral Minutes

Author: Mayor of Waverley, Cr Paula Masselos

WAVERLEY
COUNCIL

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/7.1/24.03**



Subject: Investment Portfolio Report - February 2024

TRIM No: SF23/4025

Manager: Teena Su, Executive Manager, Finance

Director: Tara Czinner, Director, Corporate Services

RECOMMENDATION:

That Council:

1. Notes the Investment Summary Report for February 2024 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.

1. Executive Summary

For the month of February 2024, Council’s investment portfolio generated \$394,678 in interest.

The interest income for year to date achieved 70.45% (\$3,629,588) of the current approved budget of \$5,152,324.

2. Introduction/Background

Section 212 of the *Local Government (General) Regulation 2021* requires that Council be provided with a written report setting out details of all money that the Council has invested under section 625 of the *Local Government Act 1993* (the Act) and certifying that these investments have been made in accordance with the Act, regulations, Ministerial Investment Orders and Council’s Investment Policy.

The table below illustrates the monthly interest income received by Council and performance against the budget.

Table 1. Monthly interest income received by Council.

Month	2023–24 Budget (\$)	Actual Monthly (\$)	Actual YTD (\$)	Tracking Current Budget (%)
July	2,761,652	363,154	363,154	7.05%
August	2,761,652	363,312	726,466	14.10%
September	2,761,652	627,360	1,353,826	26.28%
October	2,761,652	458,244	1,812,070	35.17%
November	4,654,218	382,193	2,194,264	42.59%
December	4,654,218	598,216	2,792,479	54.20%

January	4,654,218	442,431	3,234,911	62.79%
February	5,152,324	394,678	3,629,588	70.45%

3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Council 20 February 2024	CM/7.5/24.02	That Council: <ol style="list-style-type: none"> Notes the Investment Summary Report for January 2024 attached to the report. 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.

4. Discussion

As at 29 February 2024, Council's cash investment portfolio for the financial year, generated total interest earnings of \$3,629,588 representing 70.45% of the current budget of \$5,152,324.

Council's investment portfolio posted a marked-to-market return of 7.99% pa for the month versus the bank bill index benchmark return of 4.43% pa.

Without marked-to-market influences, Council's investment portfolio yielded 4.85% pa for the month. This is based on the actual interest rates being received on existing investments and excludes the underlying changes to the market value of the securities and growth fund.

Over the past 12 months, the investment portfolio has returned 5.27%, versus the bank bill index benchmark's 4.10%.

During February, Council had maturities of \$3.7m between two term deposits with terms 6 & 24 months paying an average of 3.37%pa. Council invested \$5m between 1 and 2 year deposits paying an average of 4.95% pa.

Table 2. Non-fossil fuel vs fossil fuel ADI deposit rates (invested rates shaded).

Date	Amount	Term (months)	Non-Fossil/Green Deposit Rates	Fossil Fuel ADI Deposit Rates
20-Feb-24	\$2,000,000	24	4.85%	5.05%
27-Feb-24	\$3,000,000	12	5.05%	5.08%

As at 29 February 2024, Council's investment portfolio has a current market value of \$138,170,905 which represents a gain of \$1,901,509 on the \$136,269,395 face value of the portfolio. The table below provides a summary by investment (asset) type.

Table 3. Portfolio value – Summary by investment (asset) type.

Asset group	Face Value	Current Value
Cash	\$12,255,869	\$12,255,869
Floating Rate Note	\$24,800,000	\$24,868,909
Managed Funds	\$15,213,527	\$15,213,527
Term Deposit	\$84,000,000	\$85,832,600
Total	\$136,269,395	\$138,170,905

The portfolio represents cash and investment holdings from the external and internal special restricted reserves, and unrestricted funds. The table below provides a summary by holding (reserve) type.

Table 4. Portfolio value – Summary by investment (reserve) type.

Reserves	Value
External Restriction Reserves	\$ 43,642,722
Internal Restriction Reserves	\$ 72,087,762
Unrestricted fund	\$ 20,538,912
Total	\$136,269,395

Analysis

Attached to this report is a summary of the investment portfolio for the month of February. These reports are prepared by Council's independent financial advisor, Prudential Investment Services Corp.

The table below compares Council's portfolio return to the bank bill index benchmark.

Table 5. Portfolio return.

Month	Portfolio return %	Ausbond BB index %	Variance %
Mar-23	4.66	3.39	1.27
Apr-23	5.21	3.77	1.44
May-23	3.18	3.53	-0.35
Jun-23	6.12	3.72	2.4
Jul-23	6.31	4.48	1.83
Aug-23	3.77	4.39	-0.62
Sep-23	1.74	4.18	-2.44
Oct-23	2.57	4.01	-1.44
Nov-23	8.30	4.34	3.96
Dec-23	7.70	4.43	3.27
Jan-24	5.93	4.44	1.49
Feb-24	7.99	4.43	3.56
Average % return over the last 12 months	5.29	4.09	1.20

Council has a well-diversified portfolio invested predominantly among a range of term deposits and senior ranked floating rate notes from highly rated Australian bank issuers. Council also has exposure to growth classes, including listed property and international and domestic shares, via NSW TCorpIM’s Long Term Growth Fund. It is expected that Council’s portfolio will achieve above benchmark returns over the medium/long term with prudent investment selection and holding the securities for the recommended time horizons of their asset classes.

As at the end of February 2024, 70% of Council’s portfolio was invested in non-fossil-fuel-lending authorised deposit-taking institutions (ADIs) and socially responsible investments, while fossil-fuel-lending ADIs (including the daily operation fund) accounted for 19% of the portfolio. The remaining 11% is invested with TCorp.

From June 2018 to February 2024, Council has reduced its investment in fossil-fuel-lending ADIs from 59% to 19%, as shown in Figure 1 below.

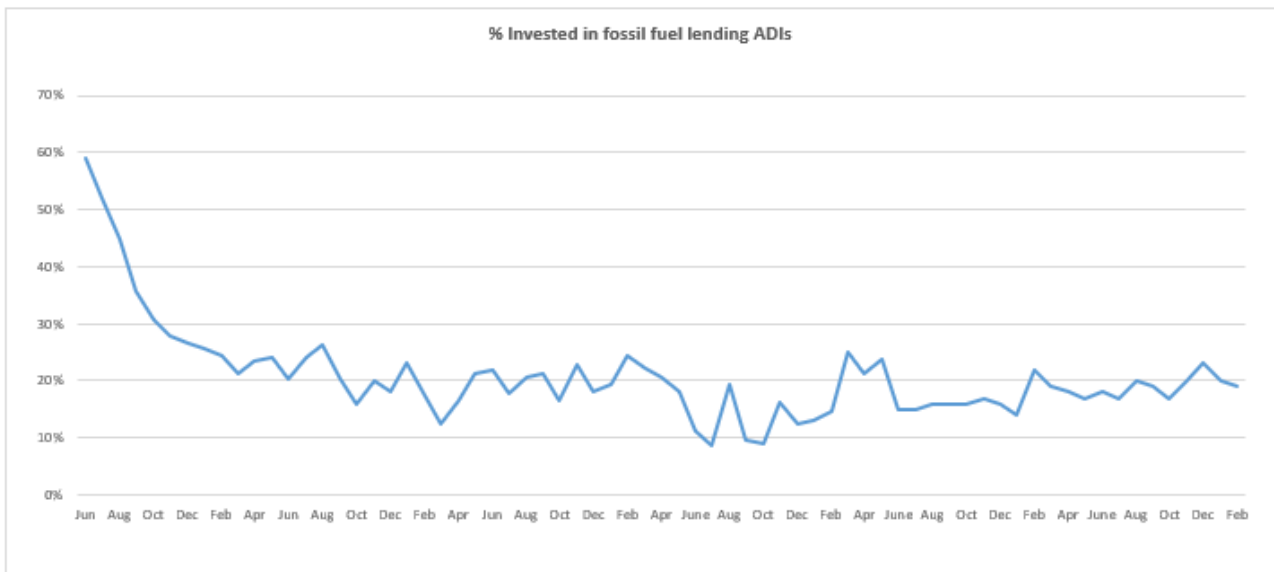


Figure 1. Investments in fossil-fuel-lending ADIs.

When excluding the working capital funds held in the Commonwealth Bank account (a fossil-fuel-lending bank) to meet day-to-day operating requirements, 76.44% of Council’s investment portfolio was invested in non-fossil-fuel-lending ADIs and socially responsible investments, while fossil-fuel-lending ADIs accounted for 11.29% of the portfolio. The remaining 12.27% is invested with TCorp as displayed in Figure 2 below.

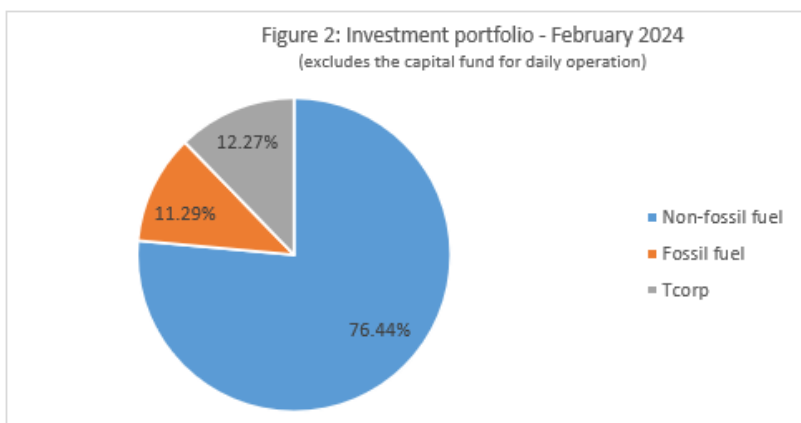


Figure 2. Investment portfolio.

5. Financial impact statement/Time frame/Consultation

This report has been prepared in consultation with Council's independent financial advisor, Prudential Investment Services Corp.

6. Conclusion

Council's investment portfolio has achieved interest earning of \$3,629,588 for the year to date, representing 70.45% of the approved budget of \$5,152,324.

7. Attachments

1. Investment Summary Report - February 2024



Investment Summary Report
February 2024

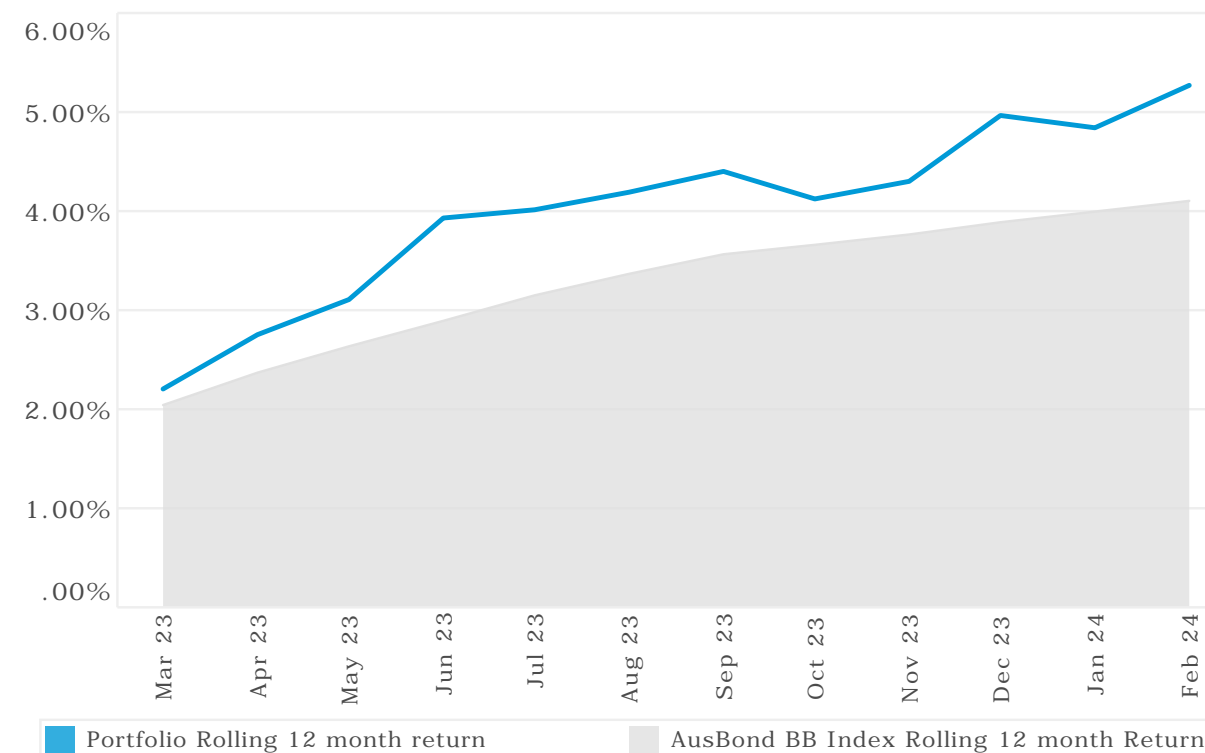
Waverley Council Executive Summary - February 2024



Investment Holdings

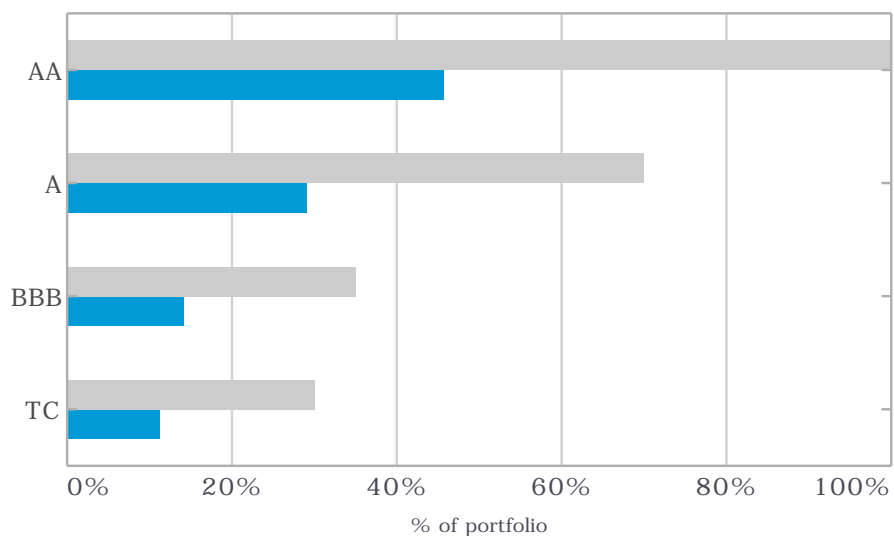
	Face Value (\$)	Current Value (\$)
Cash	12,255,869	12,255,869
Floating Rate Note	24,800,000	24,868,909
Managed Funds	15,213,527	15,213,527
Term Deposit	84,000,000	85,832,600
	136,269,395	138,170,905

Investment Performance

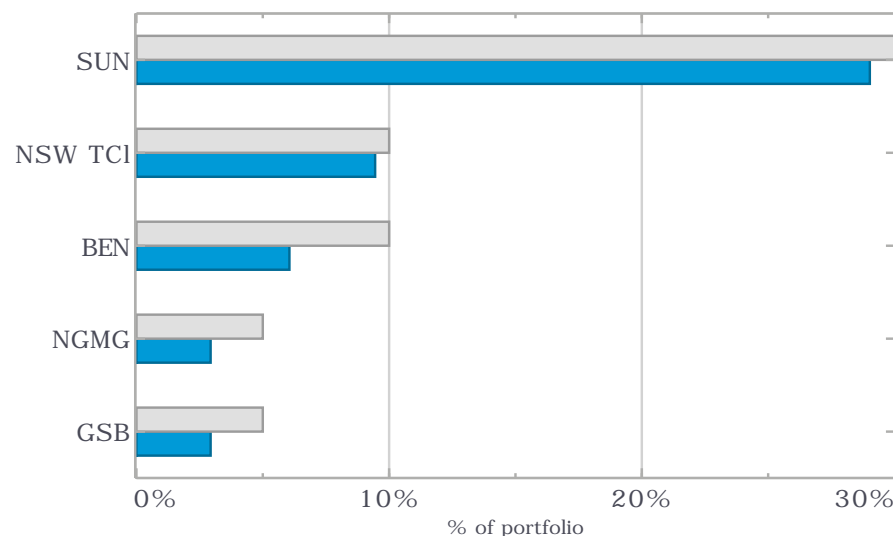


Investment Policy Compliance

Total Credit Exposure



Individual Institutional Exposures



Term to Maturities

	Face Value (\$)	Policy Max
Between 0 and 1 years	110,969,395	81% 100% a
Between 1 and 10 year:	25,300,000	19% 70% a
	136,269,395	

Specific Sub Limits

Between 3 and 10 year:	0	0%	50%	a
Between 5 and 10 year:	0	0%	25%	a

g Portfolio Exposure
 g Investment Policy Limit

Waverley Council

Investment Holdings Report - February 2024



Cash Accounts

Face Value (\$)	Current Rate (%)	Institution	Credit Rating	Current Value (\$)	Deal No.	Reference
1,000.00	0.0000%	Commonwealth Bank of Australia	AA-	1,000.00	120800	Eastgate CP
2,836.95	0.0000%	Commonwealth Bank of Australia	AA-	2,836.95	120801	Hollywood Av CP
2,993.00	0.0000%	Commonwealth Bank of Australia	AA-	2,993.00	120796	Cemetery Funds
26,597.84	0.0000%	Commonwealth Bank of Australia	AA-	26,597.84	120799	Library CP
52,359.06	0.0000%	Commonwealth Bank of Australia	AA-	52,359.06	370151	Library Gift
89,895.96	0.0000%	Commonwealth Bank of Australia	AA-	89,895.96	120795	Trust Funds
471,600.21	0.0000%	Commonwealth Bank of Australia	AA-	471,600.21	120797	Depositor Funds
1,234,554.24	0.0000%	Commonwealth Bank of Australia	AA-	1,234,554.24	120794	General Funds
10,374,031.25	4.3500%	Commonwealth Bank of Australia	AA-	10,374,031.25	120789	24hr Call
12,255,868.51	3.6821%			12,255,868.51		

Managed Funds

Face Value (\$)	Monthly Return (%)	Institution	Credit Rating	Funds Name	Current Value (\$)	Deal No.	Reference
2,340,901.56	0.4813%	NSW T-Corp (Cash)	TCc	Short Term Income Fund	2,340,901.56	411310	Builder Deposits
12,872,625.10	2.5976%	NSW T-Corp (LT)	TCl	Long Term Growth Fund	12,872,625.10	538089	
15,213,526.66	2.2720%				15,213,526.66		

Term Deposits

Maturity Date	Face Value (\$)	Current Rate (%)	Institution	Credit Rating	Purchase Price (\$)	Purchase Date	Current Value (\$)	Deal No.	Accrued Interest (\$)	Next Interest Date	Reference
5-Mar-24	4,000,000.00	1.8300%	Westpac Group	AA-	4,000,000.00	9-Mar-22	4,016,244.38	542424	16,244.38	Quarterly	Green
12-Mar-24	3,000,000.00	4.8500%	Westpac Group	AA-	3,000,000.00	3-Mar-23	3,145,101.37	543890	145,101.37	At Maturity	Green
13-Mar-24	3,000,000.00	4.8000%	Auswide Bank	Baa2	3,000,000.00	14-Mar-23	3,139,265.75	543961	139,265.75	At Maturity	
19-Mar-24	3,000,000.00	4.7200%	Suncorp Bank	A+	3,000,000.00	13-Mar-23	3,137,332.60	543932	137,332.60	At Maturity	
2-Apr-24	3,000,000.00	5.1100%	Suncorp Bank	A+	3,000,000.00	8-Aug-23	3,086,520.00	544363	86,520.00	At Maturity	
9-Apr-24	2,000,000.00	5.4700%	Suncorp Bank	A+	2,000,000.00	18-Jul-23	2,068,037.81	544322	68,037.81	At Maturity	
16-Apr-24	3,000,000.00	4.9500%	Suncorp Bank	A+	3,000,000.00	23-May-23	3,115,138.36	544113	115,138.36	At Maturity	

Waverley Council

Investment Holdings Report - February 2024



Maturity Date	Face Value (\$)	Current Rate (%)	Institution	Credit Rating	Purchase Price (\$)	Purchase Date	Current Value (\$)	Deal No.	Accrued Interest (\$)	Next Interest Date	Reference
23-Apr-24	3,000,000.00	5.1700%	Great Southern Bank	BBB	3,000,000.00	25-May-23	3,119,405.75	544129	119,405.75	At Maturity	
30-Apr-24	3,000,000.00	5.2500%	Suncorp Bank	A+	3,000,000.00	22-Aug-23	3,082,849.32	544409	82,849.32	At Maturity	
1-May-24	3,000,000.00	4.4600%	Westpac Group	AA-	3,000,000.00	28-Apr-23	3,112,905.21	544048	112,905.21	At Maturity	Green
15-May-24	3,000,000.00	5.2000%	Suncorp Bank	A+	3,000,000.00	16-Aug-23	3,084,624.66	544398	84,624.66	At Maturity	
28-May-24	1,000,000.00	5.1500%	Bendigo and Adelaide Bank	BBB+	1,000,000.00	24-Aug-23	1,026,808.22	544423	26,808.22	At Maturity	
28-May-24	3,000,000.00	5.1800%	National Australia Bank	AA-	3,000,000.00	31-Aug-23	3,077,912.88	544449	77,912.88	At Maturity	
20-Aug-24	3,000,000.00	5.0900%	Westpac Group	AA-	3,000,000.00	23-Aug-23	3,079,906.03	544416	79,906.03	At Maturity	Green
20-Aug-24	3,000,000.00	5.1600%	Westpac Group	AA-	3,000,000.00	15-Aug-23	3,006,361.64	544392	6,361.64	Quarterly	Green
27-Aug-24	3,000,000.00	5.4100%	Commonwealth Bank of Australia	AA-	3,000,000.00	29-Aug-23	3,082,261.64	544437	82,261.64	At Maturity	
27-Aug-24	4,000,000.00	5.0500%	Westpac Group	AA-	4,000,000.00	24-Aug-23	4,002,213.70	544424	2,213.70	Quarterly	Green
4-Sep-24	4,000,000.00	4.4000%	Westpac Group	AA-	4,000,000.00	2-Sep-22	4,042,432.88	543279	42,432.88	Quarterly	
4-Sep-24	4,000,000.00	5.2500%	National Australia Bank	AA-	4,000,000.00	5-Sep-23	4,102,410.96	544468	102,410.96	At Maturity	
5-Sep-24	2,000,000.00	5.0300%	Westpac Group	AA-	2,000,000.00	5-Sep-23	2,023,978.63	544467	23,978.63	Quarterly	Green
18-Sep-24	3,000,000.00	5.2000%	Suncorp Bank	A+	3,000,000.00	19-Sep-23	3,070,093.15	544580	70,093.15	At Maturity	
24-Sep-24	1,000,000.00	5.2500%	Suncorp Bank	A+	1,000,000.00	26-Sep-23	1,022,582.19	544534	22,582.19	At Maturity	
24-Sep-24	3,000,000.00	5.2000%	Suncorp Bank	A+	3,000,000.00	23-Jan-24	3,016,241.10	544805	16,241.10	At Maturity	
26-Sep-24	2,000,000.00	5.2200%	Westpac Group	AA-	2,000,000.00	26-Sep-23	2,044,906.30	544533	44,906.30	At Maturity	Green
2-Oct-24	3,000,000.00	5.2400%	Westpac Group	AA-	3,000,000.00	3-Oct-23	3,064,602.74	544556	64,602.74	At Maturity	Green
5-Nov-24	3,000,000.00	5.1700%	Suncorp Bank	A+	3,000,000.00	4-Jan-24	3,024,221.10	544763	24,221.10	At Maturity	
12-Nov-24	2,000,000.00	5.4800%	Suncorp Bank	A+	2,000,000.00	14-Nov-23	2,032,429.59	544722	32,429.59	At Maturity	
26-Feb-25	3,000,000.00	5.0500%	Suncorp Bank	A+	3,000,000.00	28-Feb-24	3,000,830.14	544863	830.14	At Maturity	
4-Mar-25	2,000,000.00	2.0200%	Westpac Group	AA-	2,000,000.00	9-Feb-22	2,002,324.38	542329	2,324.38	Quarterly	Green
20-Feb-26	2,000,000.00	4.8500%	Westpac Group	AA-	2,000,000.00	20-Feb-24	2,002,657.53	544856	2,657.53	Quarterly	Green
	84,000,000.00	4.8368%			84,000,000.00		85,832,600.01		1,832,600.01		

Floating Rate Notes

Waverley Council

Investment Holdings Report - February 2024



Maturity Date	Face Value (\$)	Current Rate (%)	Security Name	Credit Rating	Purchase Price (\$)	Purchase Date	Current Value (\$)	Deal No.	Accrued Interest (\$)	Next Coupon Date	Reference
30-Jul-24	2,500,000.00	5.1243%	SUN Snr FRN (Jul24) BBSW+0.78%	A+	2,500,000.00	30-Jul-19	2,514,905.36	538331	10,880.36	30-Apr-24	
24-Oct-24	1,000,000.00	5.4701%	GSB Snr FRN (Oct24) BBSW+ 1.12%	BBB	1,000,000.00	24-Oct-19	1,006,985.03	538604	5,545.03	24-Apr-24	
2-Dec-25	2,250,000.00	4.8868%	BEN Snr FRN (Dec25) BBSW+0.52%	BBB+	2,250,000.00	2-Dec-20	2,263,009.22	540603	26,509.22	4-Mar-24	
24-Feb-26	1,300,000.00	4.7856%	SUN Snr FRN (Feb26) BBSW+0.45%	A+	1,300,000.00	24-Feb-21	1,295,208.78	540958	681.78	24-May-24	
4-Mar-26	4,000,000.00	4.9968%	NPBS Snr FRN (Mar26) BBSW+0.63%	BBB	4,000,000.00	4-Mar-21	4,001,188.32	540983	48,188.32	4-Mar-24	
15-May-26	1,000,000.00	5.5976%	BEN Snr FRN (May26) BBSW+ 1.25%	BBB+	1,000,000.00	15-May-23	1,007,690.38	544084	2,300.38	15-May-24	
18-Jun-26	4,000,000.00	5.0125%	BEN Snr FRN (Jun26) BBSW+0.65%	BBB+	4,000,000.00	18-Jun-21	4,011,969.32	541523	40,649.32	18-Mar-24	
15-Sep-26	3,750,000.00	4.8300%	SUN Snr FRN (Sep26) BBSW+0.48%	A+	3,750,000.00	15-Sep-21	3,762,334.93	541877	38,209.93	15-Mar-24	
23-Dec-26	5,000,000.00	4.7751%	CBA Green Snr FRN (Dec26) BBSW+0.41%	AA-	5,000,000.00	23-Sep-21	5,005,618.01	541916	42,518.01	25-Mar-24	
	24,800,000.00	4.9645%			24,800,000.00		24,868,909.35		215,482.35		

Waverley Council

Accrued Interest Report - February 2024



Investment	Deal No.	Comments	Face Value (\$)	Settlement Date	Maturity Date	Interest Received (\$)	Days	Interest Accrued (\$)	Yield (% pa)
Floating Rate Note									
SUN Snr FRN (Jul24) BBSW+0.78%	538331		2,500,000.00	30-Jul-19	30-Jul-24	0.00	29	10,178.40	5.12%
GSB Snr FRN (Oct24) BBSW+ 1.12%	538604		1,000,000.00	24-Oct-19	24-Oct-24	0.00	29	4,346.10	5.47%
BEN Snr FRN (Dec25) BBSW+0.52%	540603		2,250,000.00	2-Dec-20	2-Dec-25	0.00	29	8,736.00	4.89%
SUN Snr FRN (Feb26) BBSW+0.45%	540958		1,300,000.00	24-Feb-21	24-Feb-26	16,165.89	29	4,981.22	4.82%
NPBS Snr FRN (Mar26) BBSW+0.63%	540983		4,000,000.00	4-Mar-21	4-Mar-26	0.00	29	15,880.24	5.00%
BEN Snr FRN (May26) BBSW+ 1.25%	544084		1,000,000.00	15-May-23	15-May-26	14,234.54	29	4,466.50	5.62%
BEN Snr FRN (Jun26) BBSW+0.65%	541523		4,000,000.00	18-Jun-21	18-Jun-26	0.00	29	15,930.14	5.01%
SUN Snr FRN (Sep26) BBSW+0.48%	541877		3,750,000.00	15-Sep-21	15-Sep-26	0.00	29	14,390.75	4.83%
CBA Green Snr FRN (Dec26) BBSW+0.41%	541916		5,000,000.00	23-Sep-21	23-Dec-26	0.00	29	18,969.57	4.78%
						30,400.43		97,878.92	4.97%
Managed Funds									
NSW T-Corp Defensive Cash Funds	411310				1-Jul-24	0.00	0	11,212.56	6.23%
						0.00		11,212.56	6.23%
Term Deposits									
Westpac Group	542328		2,000,000.00	9-Feb-22	20-Feb-24	8,917.26	19	1,644.93	1.58%
Bendigo and Adelaide Bank	544434		1,700,000.00	28-Aug-23	27-Feb-24	43,894.93	26	6,236.44	5.15%
Westpac Group	542424		4,000,000.00	9-Mar-22	5-Mar-24	0.00	29	5,815.89	1.83%
Westpac Group	543890		3,000,000.00	3-Mar-23	12-Mar-24	0.00	29	11,560.27	4.85%
Auswide Bank	543961		3,000,000.00	14-Mar-23	13-Mar-24	0.00	29	11,441.09	4.80%
Suncorp Bank	543932		3,000,000.00	13-Mar-23	19-Mar-24	0.00	29	11,250.41	4.72%
Suncorp Bank	544363		3,000,000.00	8-Aug-23	2-Apr-24	0.00	29	12,180.00	5.11%
Suncorp Bank	544322		2,000,000.00	18-Jul-23	9-Apr-24	0.00	29	8,692.06	5.47%
Suncorp Bank	544113		3,000,000.00	23-May-23	16-Apr-24	0.00	29	11,798.63	4.95%
Great Southern Bank	544129		3,000,000.00	25-May-23	23-Apr-24	0.00	29	12,323.01	5.17%
Suncorp Bank	544409		3,000,000.00	22-Aug-23	30-Apr-24	0.00	29	12,513.70	5.25%
Westpac Group	544048		3,000,000.00	28-Apr-23	1-May-24	0.00	29	10,630.69	4.46%

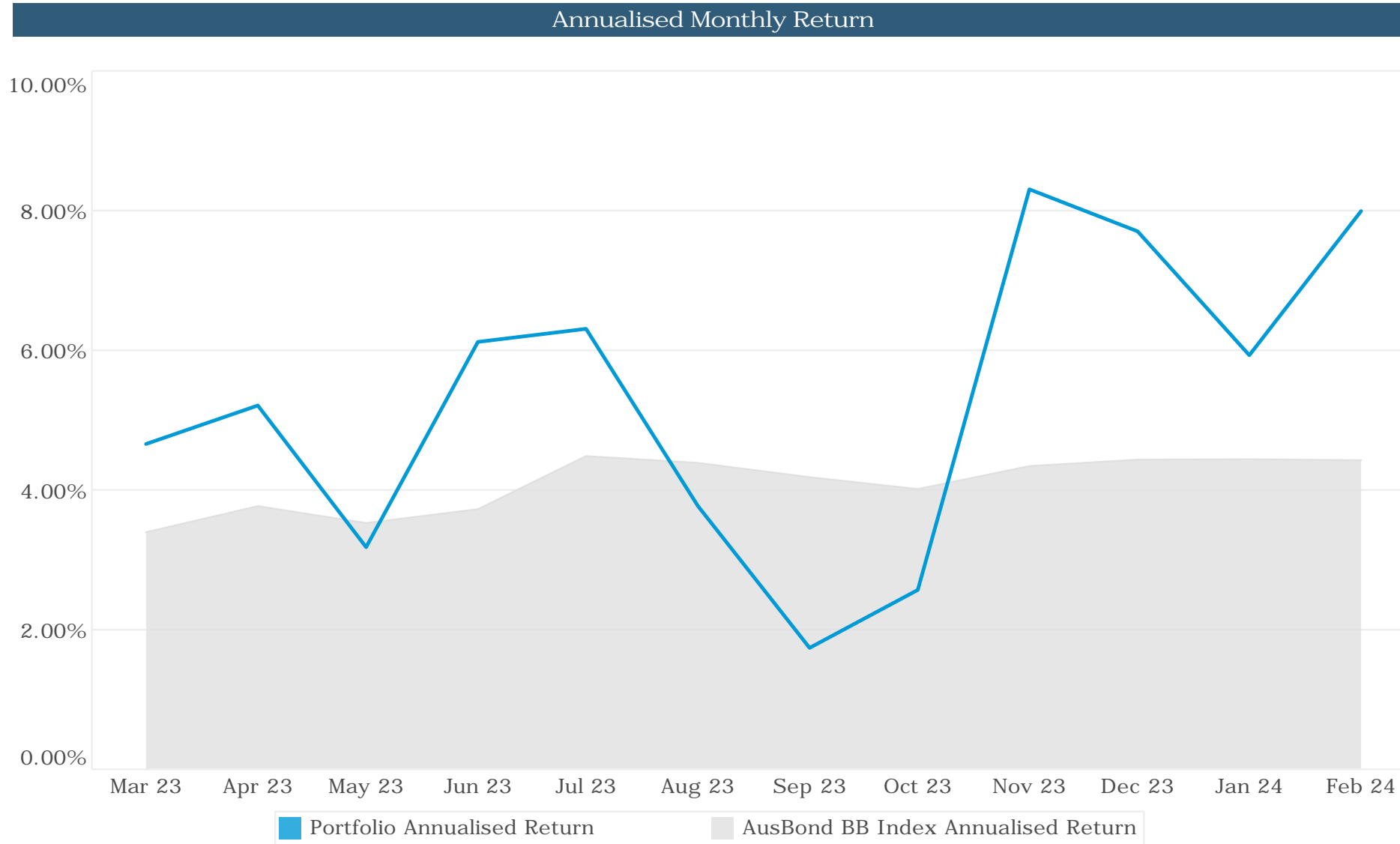
Waverley Council

Accrued Interest Report - February 2024



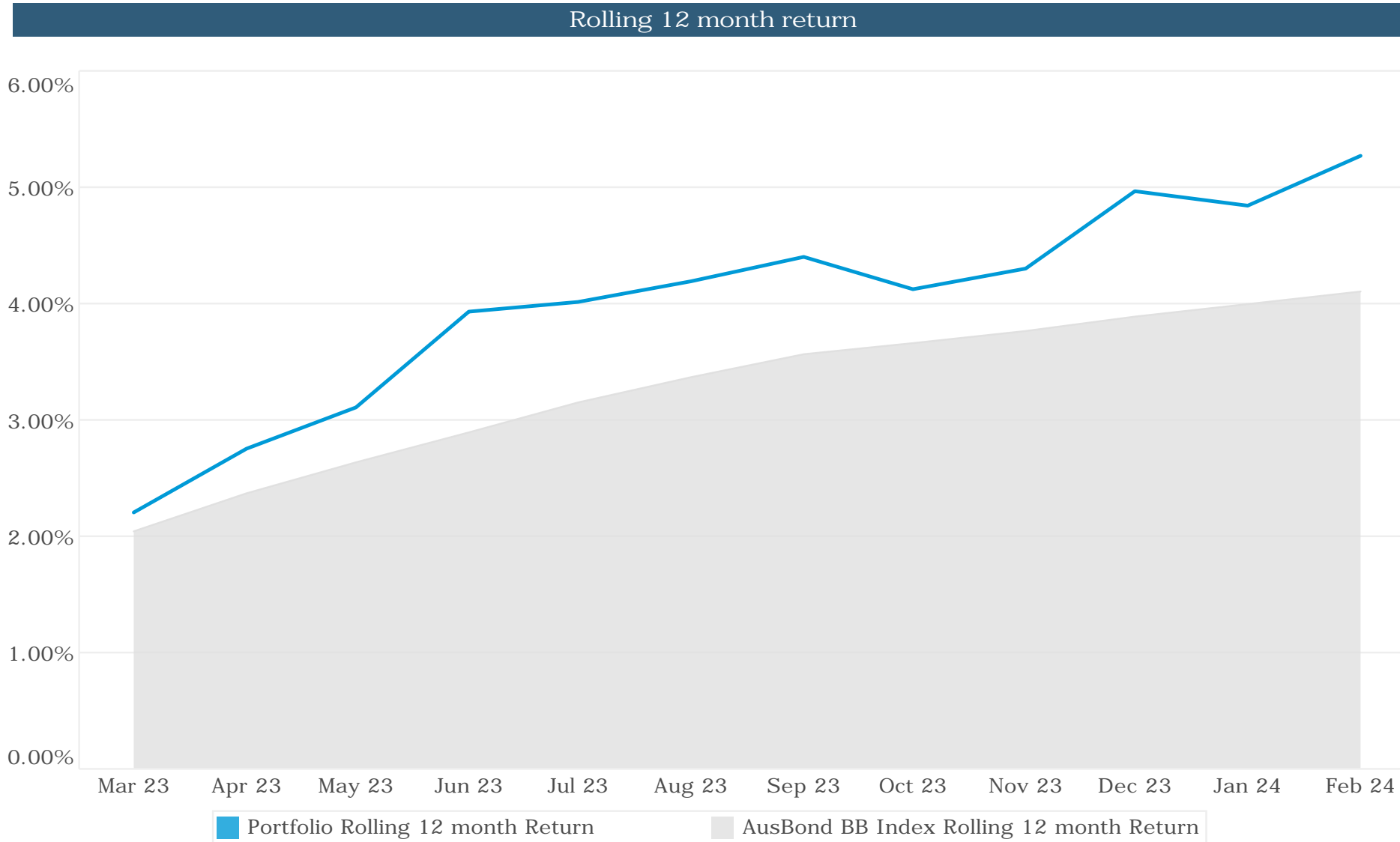
Investment	Deal No.	Comments	Face Value (\$)	Settlement Date	Maturity Date	Interest Received (\$)	Days	Interest Accrued (\$)	Yield (% pa)
Suncorp Bank	544398		3,000,000.00	16-Aug-23	15-May-24	0.00	29	12,394.52	5.20%
Bendigo and Adelaide Bank	544423		1,000,000.00	24-Aug-23	28-May-24	0.00	29	4,091.78	5.15%
National Australia Bank	544449		3,000,000.00	31-Aug-23	28-May-24	0.00	29	12,346.85	5.18%
Westpac Group	544392		3,000,000.00	15-Aug-23	20-Aug-24	39,018.08	29	12,299.17	5.16%
Westpac Group	544416		3,000,000.00	23-Aug-23	20-Aug-24	0.00	29	12,132.33	5.09%
Commonwealth Bank of Australia	544437		3,000,000.00	29-Aug-23	27-Aug-24	0.00	29	12,895.06	5.41%
Westpac Group	544424		4,000,000.00	24-Aug-23	27-Aug-24	52,021.92	29	16,049.32	5.05%
National Australia Bank	544468		4,000,000.00	5-Sep-23	4-Sep-24	0.00	29	16,684.93	5.25%
Westpac Group	543279		4,000,000.00	2-Sep-22	4-Sep-24	0.00	29	13,983.56	4.40%
Westpac Group	544467		2,000,000.00	5-Sep-23	5-Sep-24	0.00	29	7,992.88	5.03%
Suncorp Bank	544580		3,000,000.00	19-Sep-23	18-Sep-24	0.00	29	12,394.52	5.20%
Suncorp Bank	544534		1,000,000.00	26-Sep-23	24-Sep-24	0.00	29	4,171.23	5.25%
Suncorp Bank	544805		3,000,000.00	23-Jan-24	24-Sep-24	0.00	29	12,394.52	5.20%
Westpac Group	544533		2,000,000.00	26-Sep-23	26-Sep-24	0.00	29	8,294.79	5.22%
Westpac Group	544556		3,000,000.00	3-Oct-23	2-Oct-24	0.00	29	12,489.86	5.24%
Suncorp Bank	544763		3,000,000.00	4-Jan-24	5-Nov-24	0.00	29	12,323.02	5.17%
Suncorp Bank	544722		2,000,000.00	14-Nov-23	12-Nov-24	0.00	29	8,707.95	5.48%
Suncorp Bank	544863		3,000,000.00	28-Feb-24	26-Feb-25	0.00	2	830.14	5.05%
Westpac Group	542329		2,000,000.00	9-Feb-22	4-Mar-25	10,183.01	29	3,209.86	2.02%
Westpac Group	544856		2,000,000.00	20-Feb-24	20-Feb-26	0.00	10	2,657.53	4.85%
						154,035.20		314,430.94	4.78%
Grand Totals						184,435.63		423,522.42	4.85%

Waverley Council Investment Performance Report - February 2024



Historical Performance Summary (% pa)			
	Portfolio	Annualised BB Index	Outperformance
Feb 2024	7.99%	4.43%	3.56%
Last 3 months	7.19%	4.43%	2.76%
Last 6 months	5.66%	4.31%	1.35%
Financial Year to Date	5.50%	4.34%	1.16%
Last 12 months	5.27%	4.10%	1.17%

Waverley Council Investment Performance Report - February 2024



Historical Performance Summary (% actual)			
	Portfolio	Annualised BB Index	Outperformance
Feb 2024	0.61%	0.34%	0.27%
Last 3 months	1.75%	1.09%	0.66%
Last 6 months	2.78%	2.12%	0.66%
Financial Year to Date	3.64%	2.88%	0.76%
Last 12 months	5.27%	4.10%	1.17%

Waverley Council Environmental Commitments Report - February 2024



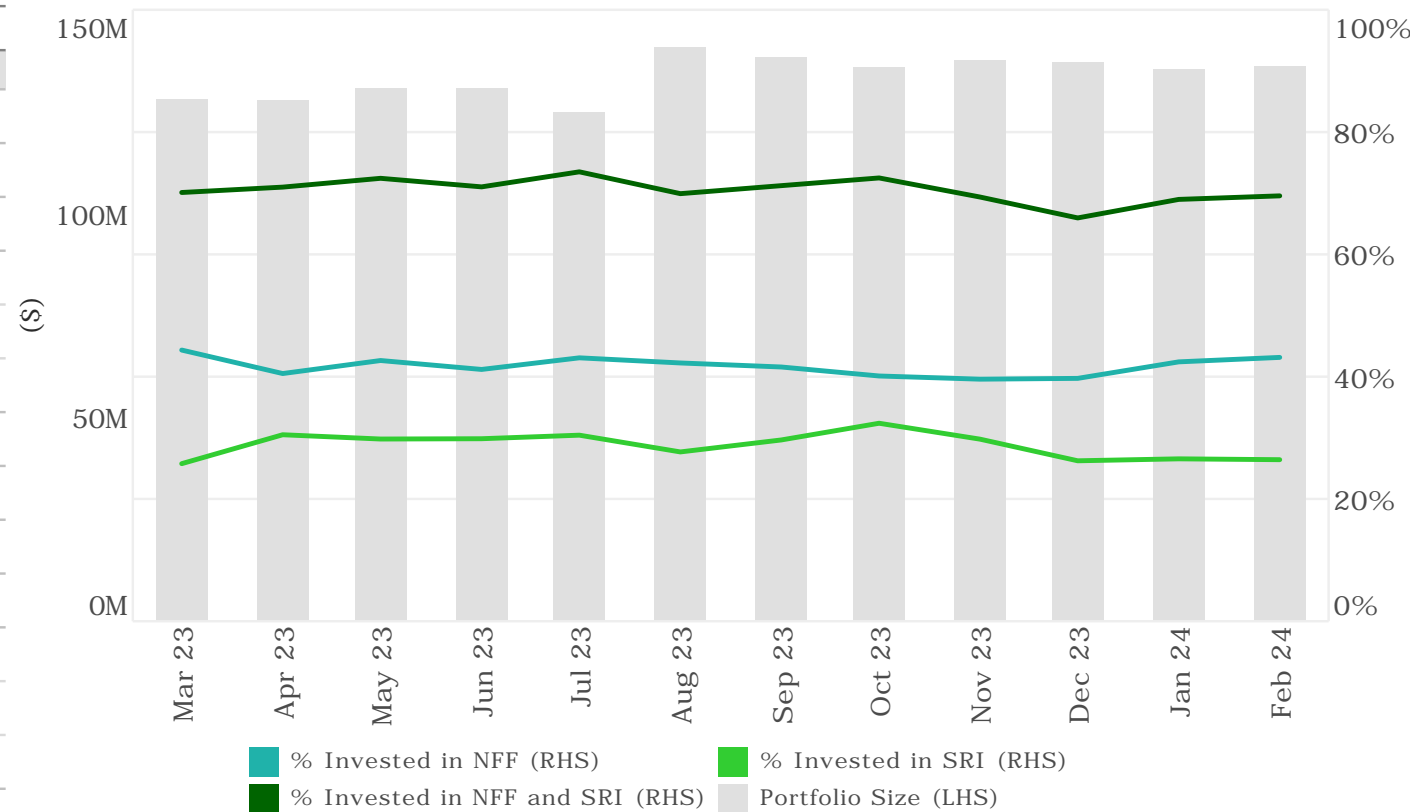
Current Breakdown

ADI Lending Status *	Current Month (\$)	Previous Month (\$)
Fossil Fuel Lending ADIs		
Commonwealth Bank of Australia	15,255,869	16,158,795
National Australia Bank	7,000,000	7,000,000
Westpac Group	4,000,000	4,000,000
	26,255,869 19%	27,158,795 20%
Non Fossil Fuel Lending ADIs		
Auswide Bank	3,000,000	3,000,000
Bendigo and Adelaide Bank	8,250,000	9,950,000
Great Southern Bank	4,000,000	4,000,000
Newcastle Greater Mutual Group	4,000,000	4,000,000
Suncorp Bank	39,550,000	36,550,000
	58,800,000 43%	57,500,000 42%
Other		
NSW T-Corp (Cash)	2,340,902	2,329,689
NSW T-Corp (LT)	12,872,625	12,546,709
	15,213,527 11%	14,876,398 11%
Socially Responsible Investment		
CBA (Green)	5,000,000	5,000,000
Westpac Group (Green TD)	31,000,000	31,000,000
	36,000,000 26%	36,000,000 27%
	136,269,395	135,535,193

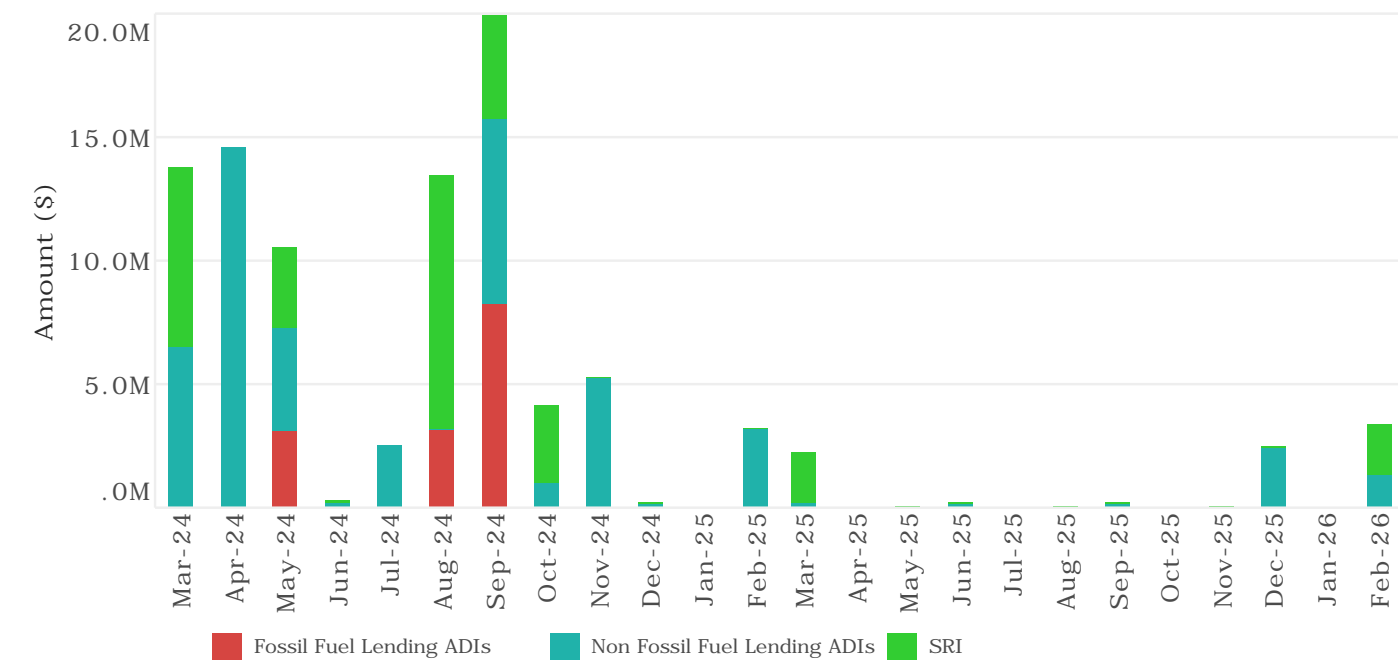
* source: Marketforces

Percentages may not add up to 100% due to rounding

Historical Portfolio Exposure to NFF Lending ADIs and SRIs



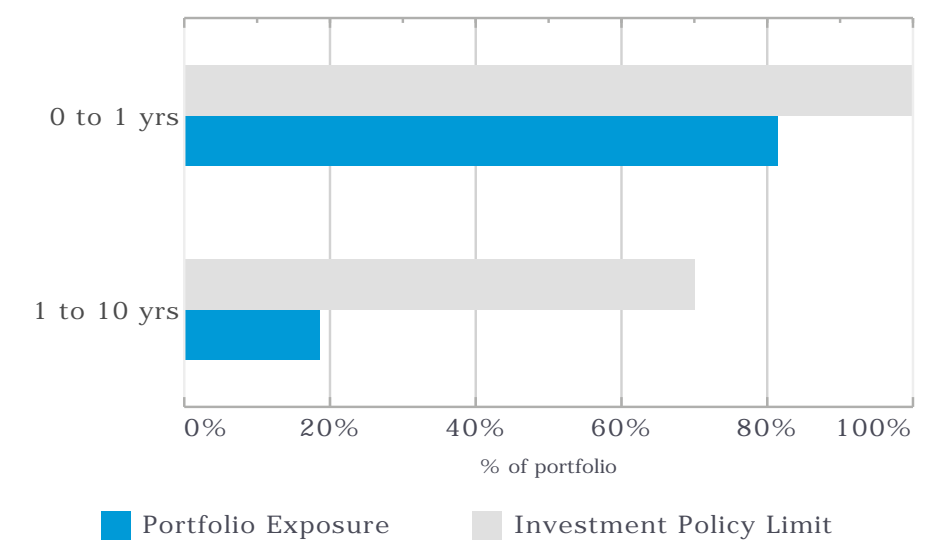
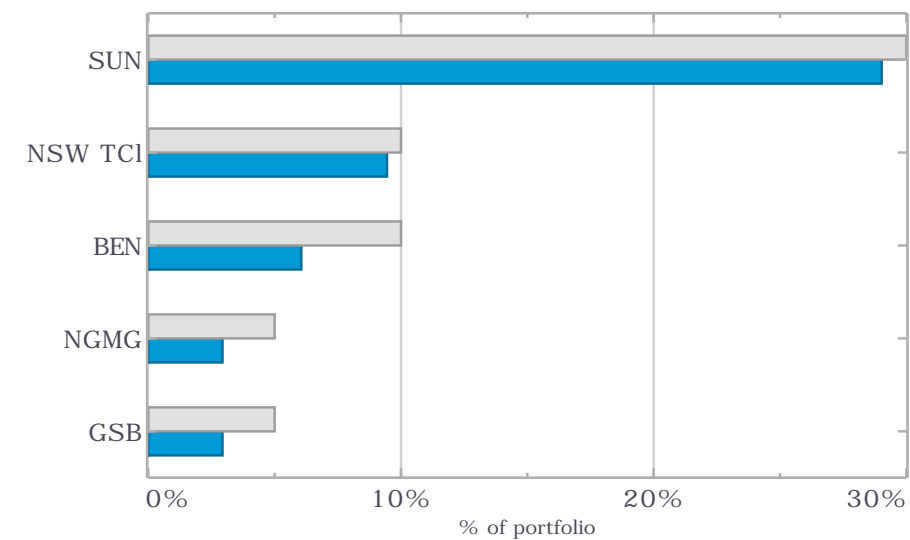
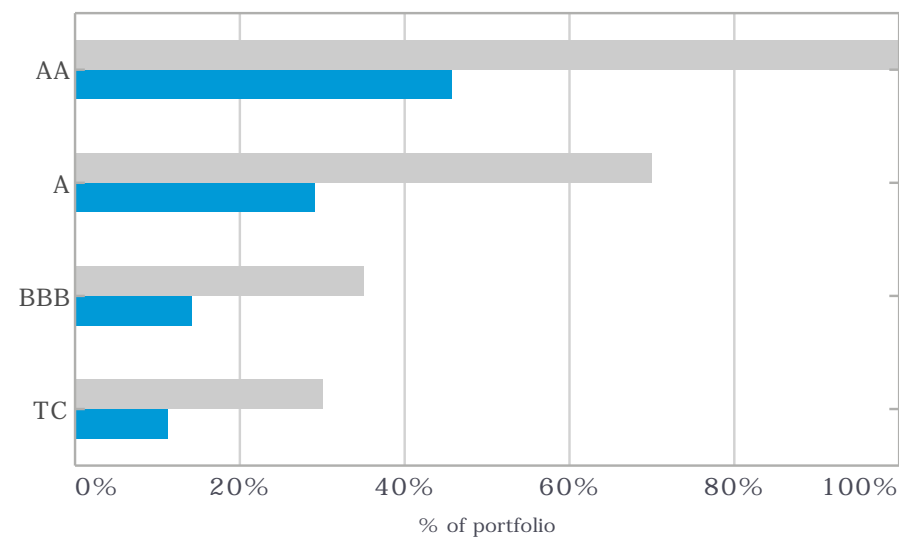
Upcoming Maturities



Waverley Council Investment Policy Compliance Report - February 2024



Total Credit Exposure Individual Institutional Exposures Term to Maturities



Credit Rating Group	Face Value (\$)	% of portfolio	Policy Max	
AA	62,255,869	46%	100%	a
A	39,550,000	29%	70%	a
BBB	19,250,000	14%	35%	a
TC	15,213,527	11%	30%	a
	136,269,395			

Institution	% of portfolio	Investment Policy Limit	
Suncorp Bank (A+)	29%	30%	a
NSW T-Corp (TCI)	9%	10%	a
Bendigo and Adelaide Bank (BBB+)	6%	10%	a
Great Southern Bank (BBB)	3%	5%	a
Newcastle Greater Mutual Group (BBB)	3%	5%	a
Westpac Group (AA-)	26%	50%	a
Auswide Bank (Baa2)	2%	5%	a
Commonwealth Bank of Australia (AA-)	15%	50%	a
NSW T-Corp (TCc)	2%	10%	a
National Australia Bank (AA-)	5%	50%	a

	Face Value (\$)	% of portfolio	Policy Max	
Between 0 and 1 years	110,969,395	81%	100%	a
Between 1 and 10 years	25,300,000	19%	70%	a
	136,269,395			

Specific Sub Limits	Face Value (\$)	% of portfolio	Policy Max	
BBB+	8,250,000	6%	35%	a
BBB	11,000,000	8%	15%	a

Specific Sub Limits	Face Value (\$)	% of portfolio	Policy Max	
Between 3 and 10 years	0	0%	50%	a
Between 5 and 10 years	0	0%	25%	a

a = compliant
r = non-compliant

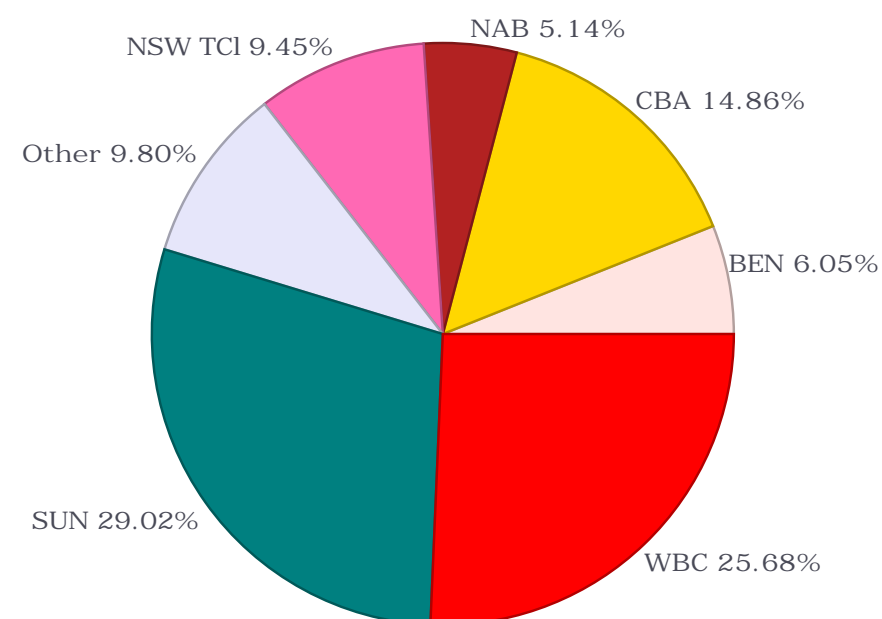
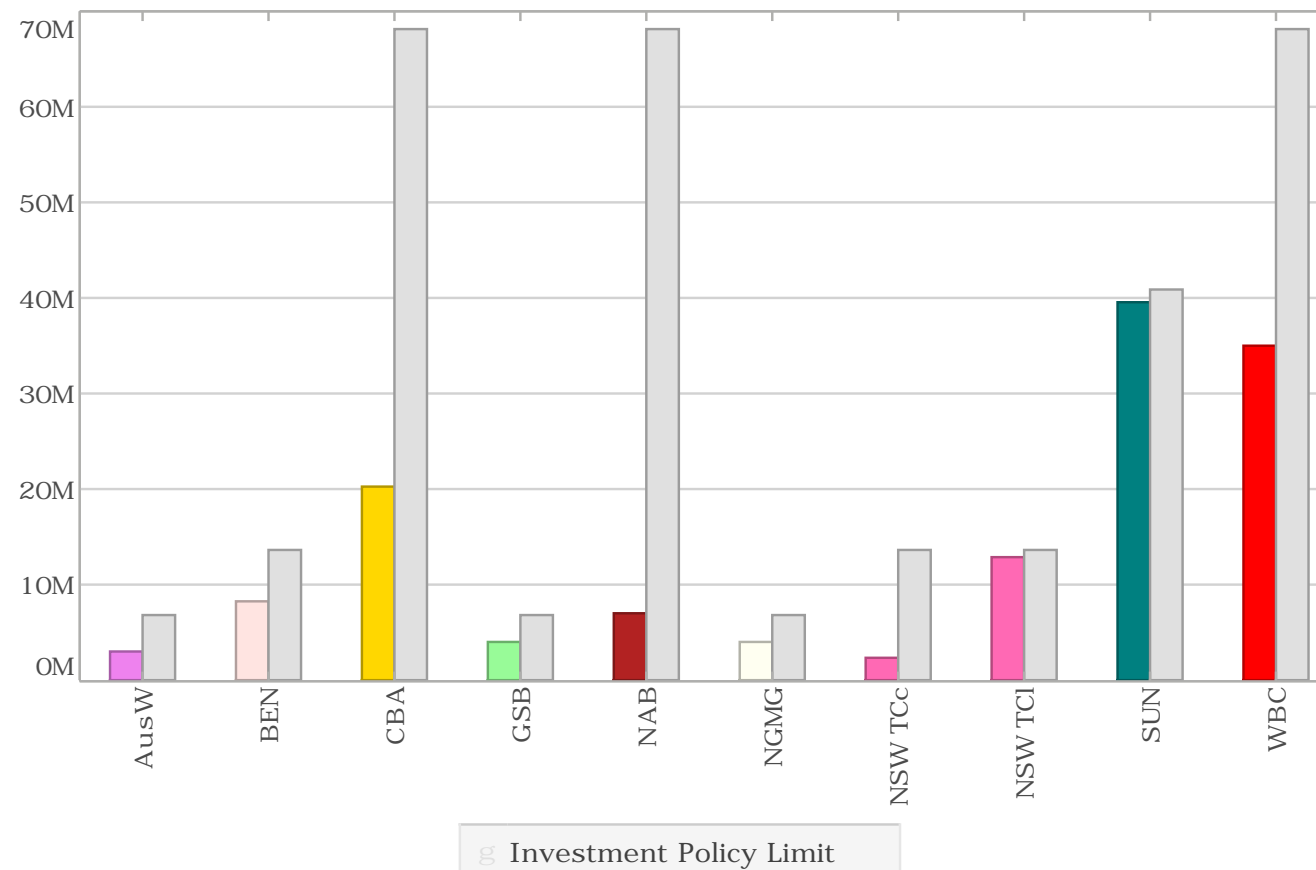
Waverley Council Individual Institutional Exposures Report - February 2024



Individual Institutional Exposures

Individual Institutional Exposure Charts

	Current Exposures		Policy Limit		Capacity
Auswide Bank (Baa2)	3,000,000	2%	6,813,470	5%	3,813,470
Bendigo and Adelaide Bank (BBB+)	8,250,000	6%	13,626,940	10%	5,376,940
Commonwealth Bank of Australia (AA-)	20,255,869	15%	68,134,698	50%	47,878,829
Great Southern Bank (BBB)	4,000,000	3%	6,813,470	5%	2,813,470
National Australia Bank (AA-)	7,000,000	5%	68,134,698	50%	61,134,698
Newcastle Greater Mutual Group (BBB)	4,000,000	3%	6,813,470	5%	2,813,470
NSW T-Corp (TCC)	2,340,902	2%	13,626,940	10%	11,286,038
NSW T-Corp (TCI)	12,872,625	9%	13,626,940	10%	754,315
Suncorp Bank (A+)	39,550,000	29%	40,880,819	30%	1,330,819
Westpac Group (AA-)	35,000,000	26%	68,134,698	50%	33,134,698
	136,269,395				



Waverley Council

Cashflows Report - February 2024



Actual Cashflows for February 2024

Date	Deal No.	Cashflow Counterparty	Asset Type	Cashflow Description	Amount
9-Feb-24	542328	Westpac Group	Term Deposit	During: Interest Received/Paid Dates	7,964.93
				<u>Deal Total</u>	<u>7,964.93</u>
9-Feb-24	542329	Westpac Group	Term Deposit	During: Interest Received/Paid Dates	10,183.01
				<u>Deal Total</u>	<u>10,183.01</u>
				Day Total	18,147.95
15-Feb-24	544084	BEN Snr FRN (May26) BBSW+ 1.25%	Floating Rate Note	Coupon Date	14,234.54
				<u>Deal Total</u>	<u>14,234.54</u>
15-Feb-24	544392	Westpac Group	Term Deposit	During: Interest Received/Paid Dates	39,018.08
				<u>Deal Total</u>	<u>39,018.08</u>
				Day Total	53,252.62
20-Feb-24	542328	Westpac Group	Term Deposit	Maturity: Face Value	2,000,000.00
		Westpac Group	Term Deposit	Maturity: Interest Received/Paid	952.33
				<u>Deal Total</u>	<u>2,000,952.33</u>
20-Feb-24	544856	Westpac Group	Term Deposit	Settlement: Face Value	-2,000,000.00
				<u>Deal Total</u>	<u>-2,000,000.00</u>
				Day Total	952.33
26-Feb-24	540958	SUN Snr FRN (Feb26) BBSW+0.45%	Floating Rate Note	Coupon Date	16,165.89
				<u>Deal Total</u>	<u>16,165.89</u>
26-Feb-24	544424	Westpac Group	Term Deposit	During: Interest Received/Paid Dates	52,021.92
				<u>Deal Total</u>	<u>52,021.92</u>
				Day Total	68,187.81
27-Feb-24	544434	Bendigo and Adelaide Bank	Term Deposit	Maturity: Face Value	1,700,000.00
		Bendigo and Adelaide Bank	Term Deposit	Maturity: Interest Received/Paid	43,894.93
				<u>Deal Total</u>	<u>1,743,894.93</u>
				Day Total	1,743,894.93
28-Feb-24	544863	Suncorp Bank	Term Deposit	Settlement: Face Value	-3,000,000.00

Waverley Council

Cashflows Report - February 2024



Date	Deal No.	Cashflow Counterparty	Asset Type	Cashflow Description	Amount
				<u>Deal Total</u>	<u>-3,000,000.00</u>
				Day Total	-3,000,000.00
				<u>Total for Month</u>	<u>-1,115,564.37</u>

Forecast Cashflows for March 2024

Date	Deal No.	Cashflow Counterparty	Asset Type	Cashflow Description	Amount
4-Mar-24	540603	BEN Snr FRN (Dec25) BBSW+0.52%	Floating Rate Note	Coupon Date	27,412.94
				<u>Deal Total</u>	<u>27,412.94</u>
4-Mar-24	540983	NPBS Snr FRN (Mar26) BBSW+0.63%	Floating Rate Note	Coupon Date	49,831.10
				<u>Deal Total</u>	<u>49,831.10</u>
4-Mar-24	543279	Westpac Group	Term Deposit	During: Interest Received/Paid Dates	43,879.45
				<u>Deal Total</u>	<u>43,879.45</u>
				Day Total	121,123.49
5-Mar-24	542424	Westpac Group	Term Deposit	Maturity: Face Value	4,000,000.00
		Westpac Group	Term Deposit	Maturity: Interest Received/Paid	17,046.58
				<u>Deal Total</u>	<u>4,017,046.58</u>
5-Mar-24	544467	Westpac Group	Term Deposit	During: Interest Received/Paid Dates	25,081.10
				<u>Deal Total</u>	<u>25,081.10</u>
				Day Total	4,042,127.67
12-Mar-24	543890	Westpac Group	Term Deposit	Maturity: Face Value	3,000,000.00
		Westpac Group	Term Deposit	Maturity: Interest Received/Paid	149,486.30
				<u>Deal Total</u>	<u>3,149,486.30</u>
				Day Total	3,149,486.30
13-Mar-24	543961	Auswide Bank	Term Deposit	Maturity: Face Value	3,000,000.00
		Auswide Bank	Term Deposit	Maturity: Interest Received/Paid	144,000.00
				<u>Deal Total</u>	<u>3,144,000.00</u>
				Day Total	3,144,000.00

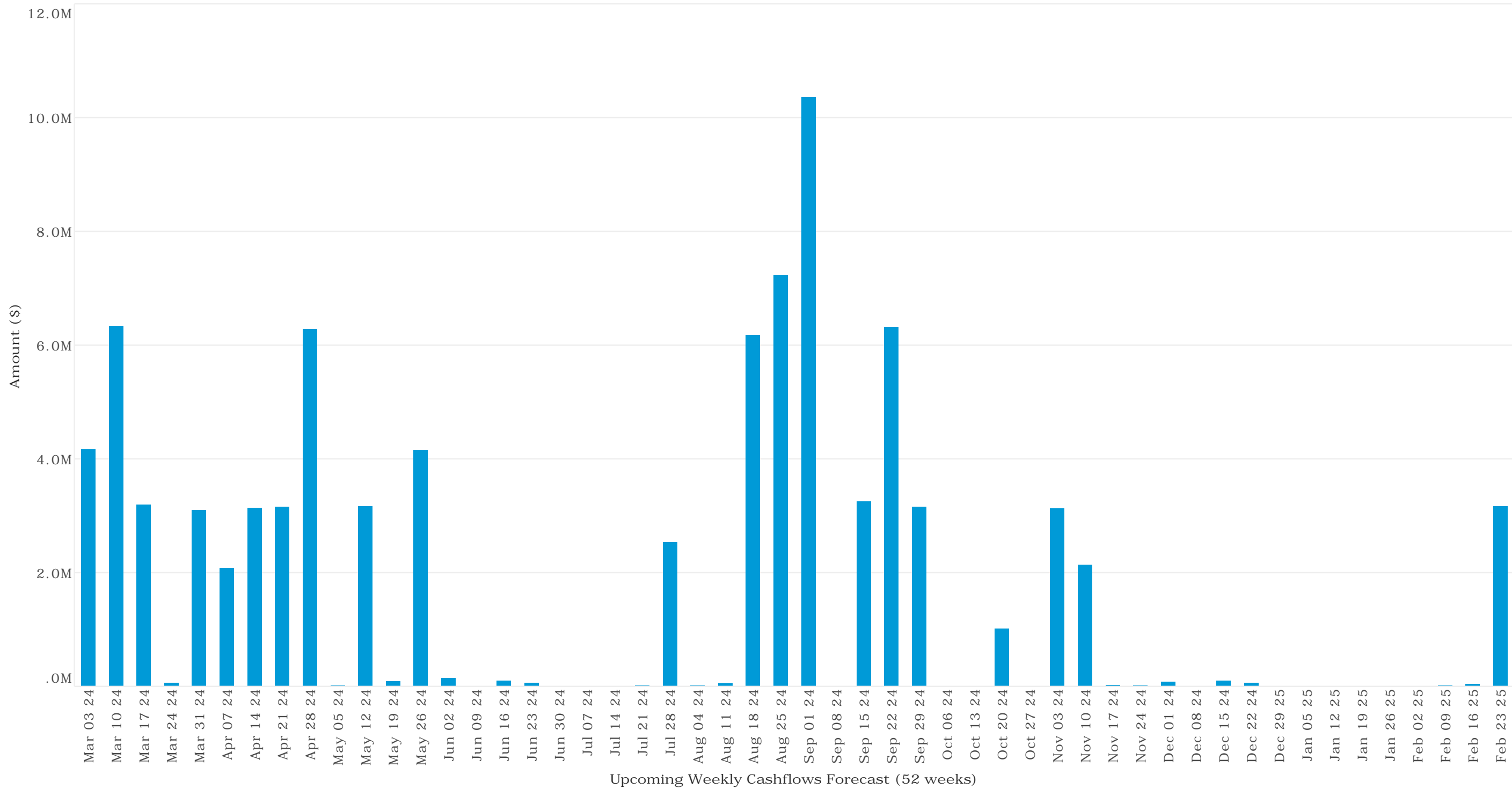
Waverley Council

Cashflows Report - February 2024

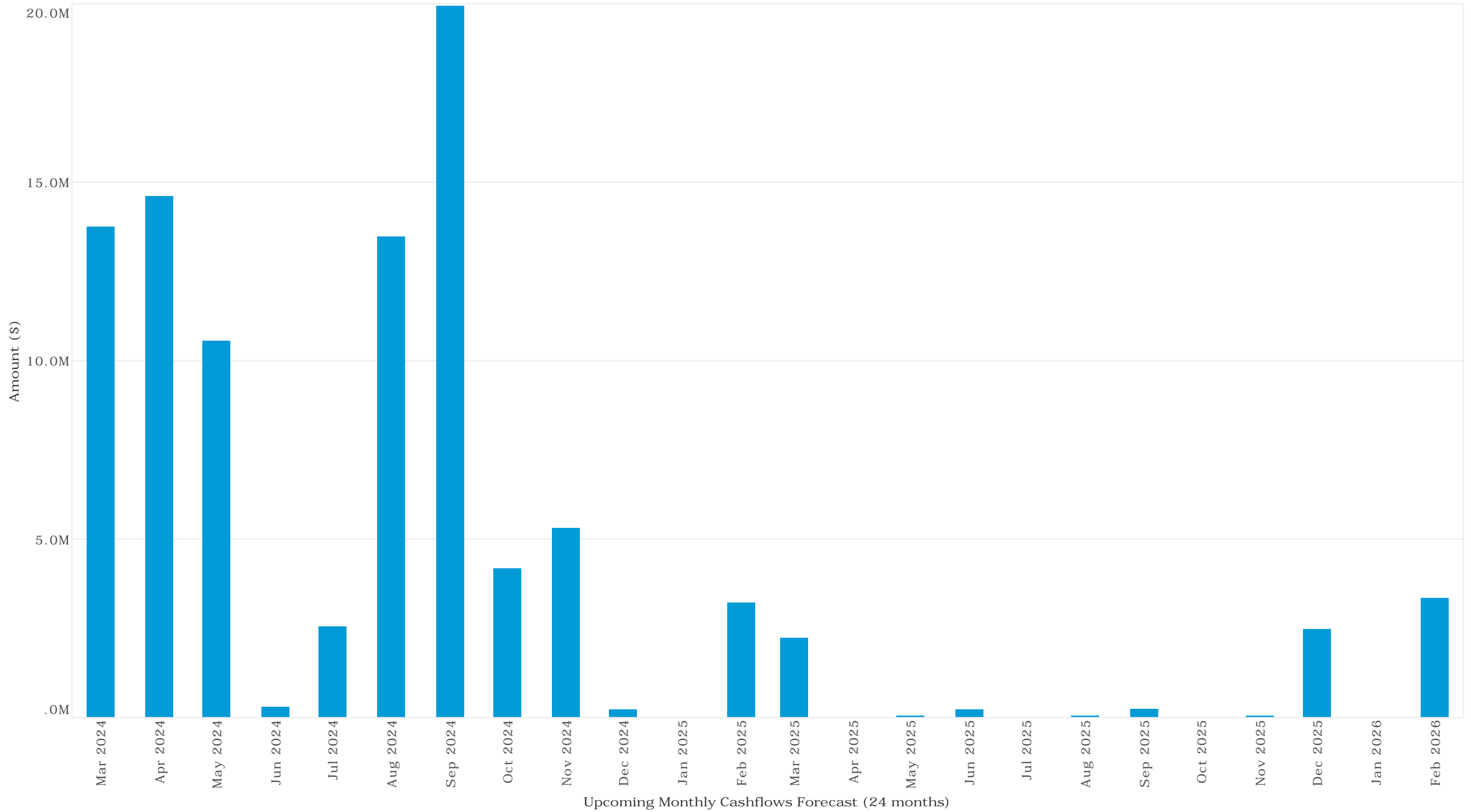


Date	Deal No.	Cashflow Counterparty	Asset Type	Cashflow Description	Amount
15-Mar-24	541877	SUN Snr FRN (Sep26) BBSW+0.48%	Floating Rate Note	Coupon Date	45,157.19
				<u>Deal Total</u>	<u>45,157.19</u>
				Day Total	45,157.19
18-Mar-24	541523	BEN Snr FRN (Jun26) BBSW+0.65%	Floating Rate Note	Coupon Date	49,987.67
				<u>Deal Total</u>	<u>49,987.67</u>
				Day Total	49,987.67
19-Mar-24	543932	Suncorp Bank	Term Deposit	Maturity: Face Value	3,000,000.00
		Suncorp Bank	Term Deposit	Maturity: Interest Received/Paid	144,315.61
				<u>Deal Total</u>	<u>3,144,315.61</u>
				Day Total	3,144,315.61
25-Mar-24	541916	CBA Green Snr FRN (Dec26) BBSW+0.41%	Floating Rate Note	Coupon Date	58,216.97
				<u>Deal Total</u>	<u>58,216.97</u>
				Day Total	58,216.97
				<u>Total for Month</u>	<u>13,754,414.91</u>

Waverley Council Cashflows Report - February 2024



Waverley Council Cashflows Report - February 2024



**REPORT
CM/7.2/24.03**



Subject: Planning Proposal - Waverley Local Environmental Plan - General Update - Exhibition

TRIM No: PP-1/2024

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

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

RECOMMENDATION:

That Council:

1. Forwards the planning proposal attached the report (Attachment 1) on a general update to the *Waverley Local Environmental Plan 2012* to the Department of Planning, Housing and Infrastructure (DPHI) for Gateway Determination for the purposes of public exhibition.
2. Publicly exhibits the planning proposal in accordance with any conditions of the Gateway determination or amendments requested by the DPHI.
3. Requests and accepts, if offered, the role of the Local Plan Making Authority from the DPHI 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*.
4. Publicly exhibits the draft Display of Goods on Footpath Policy attached to the report (Attachment 2) for a minimum of 42 days.
5. Officers prepare a report to Council following the exhibition period.

1. Executive Summary

This planning proposal seeks to amend the *Waverley Local Environmental Plan (WLEP) 2012* as per Table 1 of this report to:

- Address minor wording and mapping errors and inconsistencies,
- Resolve issues related to recently introduced clauses, and
- Introduce a development pathway for the display of goods on the footpath.

Table 1. Proposed changes to WLEP 2012.

Section of the WLEP 2012	Proposal	Reason
Schedule 2 - Exempt development	New objective: Use of the footpath for displays of retail goods (1) Must be on a public road within the	To allow the operators of retail premises to place displays of goods on the footway outside of their premises with a checklist

	<p>meaning of the Roads Act 1993;</p> <p>(2) Must be associated with a lawful shop;</p> <p>(3) Must be carried out in accordance with any approval issued by Council under Division 3 of Part 9 of under the Roads Act 1993; and</p> <p>(4) Be carried out in accordance with any approval under section 68, or be exempt from approval under any policy adopted by Council under section 161 of the Local Government Act 1993.</p>	<p>approval and applicable leasing fee.</p> <p>This new objective will be supported by a new Local Approvals Policy for the Display of Goods on the Footpath.</p>
Clause 4.3 - Height of buildings	<p>Amend the clause as follows:</p> <p><i>a) To ensure building heights preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views, To establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces.</i></p> <p><i>b) To accommodate taller buildings on land in Zone E2 Commercial Centre in the Bondi Junction Centre and establish a transition in scale between adjoining zones to protect local amenity,</i></p> <p><i>c) To maintain satisfactory solar access to existing buildings and public areas,</i></p> <p><i>d) To establish building heights that are consistent with the desired future character of the locality and streetscape.</i></p>	<p>The current wording needs to be strengthened to protect against adverse overshadowing, overlooking and view loss.</p>
Clause 4.4A - Exceptions to floor space ratio	<p>Amend the clause as follows:</p> <p><i>Despite clause 4.4, the maximum floor space ratio for a dwelling house, attached dwelling, semi-detached dwelling or dual occupancy on land in Zone R2 Low Density Residential, Zone R3 Medium Density Residential or Zone R4 High Density Residential is as follows—</i></p> <p><i>(a) for lots with an area less than 100 square metres—1:1,</i></p> <p><i>(b) for lots with an area of 100 square metres to 550 square metres—$[(550 - \text{lot area}) \times 0.0011] + 0.5$:1,</i></p> <p><i>(c) for lots with an area greater than 550 square metres—0.5:1.</i></p>	<p>This change is proposed to make other low-density forms of residential development eligible to use the exception.</p> <p>It is reasonable for the added building types to have a similar scale as a dwelling house or dual occupancy in order to achieve visually consistent streetscapes.</p>
Clause 4.5 - Calculation of floor space ratio and site area	<p><i>(3) Site area</i></p> <p><i>In determining the site area of proposed development for the purpose of applying a floor space ratio, the site area is taken to be—</i></p> <p><i>(a) if the proposed development is to be carried out on only one lot, the area of that lot, or</i></p> <p><i>(b) if the proposed development is to be carried</i></p>	<p>Providing clarity for how a DA applying Cl4.4A should determine site area.</p>

	<p><i>out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common boundary with another lot on which the development is being carried out.</i></p> <p>(c) For proposed development applying Clause 4.4A, if the proposed development is to be carried out on 2 or more lots that has at least one common boundary with another lot on which the development is being carried out and comprises of 1 domicile per lot (maximum), then the respective area of each individual lot.</p> <p><i>In addition, subclauses (4)–(7) apply to the calculation of site area for the purposes of applying a floor space ratio to proposed development.</i></p>	
Clause 6.14 - Waste minimisation and recycling	<p>Amend subclause (2) as follows:</p> <p><i>(2) This clause applies to the alteration and addition of or the erection of a building for the following purposes—</i></p> <p><i>(a) mixed use development,</i></p> <p><i>(b) residential flat buildings,</i></p> <p><i>(c) shop top housing.</i></p>	To ensure that buildings undergoing alterations and additions are also subject to high standards of waste management.
Mapping - Heritage, Lot Size, Land Zone	Refer to Part 4 of the planning proposal document for details on housekeeping mapping changes.	As lots have adjusted their boundary lines some mapping affectations have not been updated accordingly to reflect the new cadastre and lot outline. This proposal seeks to amend these minor inconsistencies.
Mapping - Terrestrial Biodiversity Map	Refer to Part 4 of the planning proposal document for details on terrestrial biodiversity mapping changes.	One Council-owned site and a minor portion along the rear boundary of one privately owned site has been identified on the recent 2020 remnant vegetation map (non-LEP map), so needs to be added to the WLEP Terrestrial Biodiversity Map for consistency.

2. Introduction/Background

Since the last update of the WLEP in September 2022, a number of minor matters have arisen that require amendment to ensure that the WLEP contains up to date, accurate, robust and relevant provisions. Table 1 details the reasons for each proposed change.

3. Relevant Council Resolutions

Nil.

4. Discussion

The majority of changes proposed under this planning proposal (Attachment 1) are not a result of a strategic study or report—rather a need to provide clarification or strengthen an existing provision based on feedback since original implementation of the particular clause being altered.

Display of goods on footpath

The proposed addition of an exempt development objective for the display of goods on the footpath is the result of local business enquiries and best practice review.

The new exempt development approach would allow operators of retail premises to place displays of goods on the footway outside of their premises without development assessment. A one-time application fee and yearly permit fee will apply as per Council's Fees and Charges Policy for the use of the footpath. There is already an applicable fee in the Fees and Charges.

Officers have prepared a draft local approvals policy under part 3 ('Adoption of local policies concerning approvals and orders') of the *Local Government Act 1993* for the Display of Goods on the Footpath (Attachment 2), to be exhibited concurrently with this planning proposal. The intent of the draft local approvals policy is to encourage uses of minimal environmental impact on public land when those uses create interest and urban character whilst maintaining access and safety.

The policy details the distances from street furniture and other obstacles that must be maintained, the clear path of travel that must be maintained, expectations over the management and maintenance of goods displays, and restrictions over the types of goods that can be displayed. Where the display of goods meets all the criteria of the policy, no development assessment is required from Council and the goods can be displayed following the processing of payment for the use of the footpath.

The intention of the new LEP exempt development clause and supplementary Local Approvals Policy is to streamline the process for local businesses to display goods on the footpath with an easy to understand policy and simple payment form. This simultaneously decreases the assessment and administrative workload of Council officers.

Clause 4.4A – Exceptions to floor space ratio

A recent class 4 appeal in the NSW Land and Environment Court has identified that clause 4.4A (technically) does not apply to semi-detached dwellings or attached dwellings. The proposed amendment seeks to allow for semi-detached dwellings and attached housing (e.g. terraces) to have the same floor space ratio (FSR) control applied as occurs for dwellings and dual occupancies. This amendment would be consistent with other implementations of the clause in Woollahra and Randwick Council LEPs and support applicants and assessment staff to interpret the clause as always intended.

The proposed amendment is also consistent with the floorspace permitted by the NSW Government's *State Environmental Planning Policy (Exempt and Complying Development) 2008* for complying development certificates.

Mapping changes

The Heritage, Lot Size and Land Use map changes are a result of land consolidation and subdivision, whereby the boundary lines and cadastre of each lot have slightly changed and the mapping affectation no longer matches the outline of the property.

The proposed Terrestrial Biodiversity mapping change is a result of the findings of the *Waverley Biodiversity Action Plan: Remnant Sites 2022-2031*, which revealed remnant vegetation in North Bondi which requires consideration under any future development.

Administrative information

The planning proposal is considered a 'principal' planning proposal, in line with the LEP Making Guidelines (August 2023) criteria as it contains multiple housekeeping amendments and a combination of other more significant changes.

Council requests to be appointed the planning proposal Authority (PPA) and Local Plan-Making Authority (LPMA).

Strategic merit test

The proposal is considered to have strategic merit because it:

- Demonstrates consistency with the Region Plan, District Plan, Waverley Local Strategic Planning Statement, *Waverley Local Environment Plan*, Waverley Local Housing Strategy and Waverley Community Strategic Plan.
- Gives effect to the findings of the *Waverley Biodiversity Action Plan: Remnant Sites 2022-2031*, which identified land with significant remnant vegetation.

Site-specific merit test

The planning proposal clarifies and strengthens existing clauses relating to FSR, building height and waste management, and mapping related to land use, lot size, heritage and terrestrial biodiversity. Doing so allows development in Waverley LGA to have a positive impact on the natural and built environment, and on the existing uses, approved uses and likely future uses of the land affected.

5. Financial impact statement/Time frame/Consultation

Financial Impact

There have been no upfront or recurrent costs associated with this planning proposal other than staff costs associated with the administration.

Time frame

It is estimated that this amendment to the WLEP will be completed by late 2024.

Community consultation

Public exhibition is likely to include at minimum a display on the Council's website. The Gateway Determination will specify the level of public consultation that must be undertaken in relation to the planning proposal.

Pursuant to division 3.4 of the Act, a planning proposal must be placed on public exhibition for a minimum of 28 days, or as specified in the Gateway Determination for the proposal. The Responsible Planning Authority must consider any submissions made concerning the proposed instrument and the report of any public hearing.

6. Conclusion

This planning proposal seeks to amend the WLEP to address minor wording and mapping errors and inconsistencies. These changes will strengthen the operation of the LEP when assessing development applications. The update of clause 4.4A is necessary to address a recent class 4 appeal whereby the intended scope and application requires amendment to also apply to semi-detached and attached dwellings.

The introduction of a development pathway for the display of goods on the footpath, in alignment with the new proposed local approvals policy, will allow the operators of retail premises to place displays of goods on the footway outside of their premises without the need for Council approval.

7. Attachments

1. Planning proposal - General LEP update [↓](#)
2. Draft Display of Goods on the Footpath Policy [↓](#)



WAVERLEY
COUNCIL

PLANNING PROPOSAL

General LEP Update

PP-1/2024



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Planning Proposal Information

Table 1 – Council Versions

No.	Date	Version
1	19 February 2024	Sent to Waverley Local Planning Panel
2	08 March 2024	Sent to 19 th March Council Meeting

EXECUTIVE SUMMARY

This Planning Proposal prepared by Waverley Council seeks to make updates to various parts of the Waverley Local Environmental Plan 2012, including but not limited to:

- Minor housekeeping mapping amendments,
- Improvements to recently introduced clauses where they have been found to be problematic, and the
- Introduction of exempt development pathway for the display of goods on the footpath.

This Planning Proposal contains some amendments that are site specific, and some amendments that apply to the entire LGA.

The majority of changes proposed under this Planning Proposal are not a result of a strategic study or report – rather a need to provide clarification or strengthen an existing provision based on feedback since original implementation of the particular clause being altered.

The Heritage, Lot Size and Land Use map changes are a result of land consolidation and subdivision, whereby the boundary lines and cadastre of each lot have slightly changed and the mapping affectation no longer matches the outline of the property.

The proposed Terrestrial Biodiversity mapping change is a result of the findings of the *Waverley Biodiversity Action Plan: Remnant Sites 2022-2031*, which revealed remnant vegetation in North Bondi which requires consideration under any future development.

The proposed addition exempt development objective for the display of goods on the footpath is the result of a local business enquiry and subsequent internal Council review. The review found that Council's previous application process for the display of goods on the footpath had been made inaccessible to the public. This prompted the need for an updated and streamlined approach to the display of goods.

The Planning Proposal is considered a 'Principal' Planning Proposal, in line with the LEP Making Guidelines (August 2023) criteria as it contains multiple housekeeping amendments and a combination of other more significant changes.

Council requests to be appointed the Planning Proposal Authority (PPA) and Local Plan-Making Authority (LPMA).

PART 1 – OBJECTIVES AND INTENDED OUTCOMES

1.1 Objective

This Planning Proposal seeks to amend the Waverley Local Environmental Plan (WLEP) 2012 as per Part 2.1 of this report to:

- address minor wording and mapping errors and inconsistencies,
- resolve issues related to recently introduced clauses, and
- allow for the displays of goods on the footway as exempt development and identify appropriate development standards.

1.2 Intended Outcomes

The intended outcomes of the proposed amendments to the WLEP are to:

- ensure that mapping is up to date with accurate cadastres and property affectations so that appropriate consideration can be given to properties during the development assessment process,
- provide clarity regarding the consideration of building height, floor space ratio and waste management, and
- allow retail premises that adjoin a footpath to easily display goods on the footpath outside their shop without a Development Application or Complying Development Certificate approval subject to meeting particular design requirements contained in a local approvals policy.

PART 2 – EXPLANATION OF PROVISIONS

2.1 Intended Provisions

This Planning Proposal seeks to amend the Waverley Local Environmental Plan 2012 as follows:

Table 2 – Proposed changes to WLEP 2012

Section of the WLEP 2012	Proposal	Reason
Clause 4.3 Height of buildings	Amend the clause as follows: a) To ensure building heights preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views; <i>To establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces.</i> b) <i>To accommodate taller buildings on land in Zone E2 Commercial Centre in the Bondi Junction Centre and establish a transition in scale between adjoining zones to protect local amenity,</i> c) To maintain satisfactory solar access to existing buildings and public areas;	The current wording needs to be strengthened to protect against adverse overshadowing, overlooking and view loss.

	<i>d) To establish building heights that are consistent with the desired future character of the locality and streetscape.</i>	
Clause 4.4A Exceptions to floor space ratio	<p>Amend the clause as follows:</p> <p><i>Despite clause 4.4, the maximum floor space ratio for a dwelling house, attached dwelling, semi-detached dwelling or dual occupancy on land in Zone R2 Low Density Residential, Zone R3 Medium Density Residential or Zone R4 High Density Residential is as follows—</i></p> <p><i>(a) for lots with an area less than 100 square metres—1:1,</i></p> <p><i>(b) for lots with an area of 100 square metres to 550 square metres—$[(550 - \text{lot area}) \times 0.0011] + 0.5$:1,</i></p> <p><i>(c) for lots with an area greater than 550 square metres—0.5:1.</i></p>	<p>This change is proposed to make other low-density forms of residential development eligible to use the exception.</p> <p>It is reasonable for the added building types to have a similar scale as a dwelling house or dual occupancy.</p>
Clause 4.5 Calculation of floor space ratio and site area	<p><i>(3) Site area</i></p> <p><i>In determining the site area of proposed development for the purpose of applying a floor space ratio, the site area is taken to be—</i></p> <p><i>(a) if the proposed development is to be carried out on only one lot, the area of that lot, or</i></p> <p><i>(b) if the proposed development is to be carried out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common boundary with another lot on which the development is being carried out.</i></p> <p><i>(c) For proposed development applying Clause 4.4A, if the proposed development is to be carried out on 2 or more lots that has at least one common boundary with another lot on which the development is being carried out and comprises of 1 domicile per lot (maximum), then the respective area of each individual lot.</i></p> <p><i>In addition, subclauses (4)–(7) apply to the calculation of site area for the purposes of applying a floor space ratio to proposed development.</i></p>	<p>Providing clarity for how a DA applying Cl4.4A should determine site area.</p>
Clause 6.14 Waste minimisation and recycling	<p>Amend subclause (2) as follows:</p> <p><i>(2) This clause applies to the alteration and addition of or the erection of a building for the following purposes—</i></p> <p><i>(a) mixed use development,</i></p> <p><i>(b) residential flat buildings,</i></p> <p><i>(c) shop top housing.</i></p>	<p>To ensure that buildings undergoing alterations and additions are also subject to high standards of waste management.</p>
Schedule 2 Exempt development	<p>New objective:</p> <p>Use of the footpath for displays of retail goods</p> <p>(1) Must be on a public road within the meaning of the Roads Act 1993;</p> <p>(2) Must be associated with a lawful shop;</p>	<p>To allow the operators of retail premises to place displays of goods on the footway outside of their premises without the need for Council approval.</p> <p>This new objective will be supported by a new Local</p>

	(3) Must be carried out in accordance with any approval issued by Council under Division 3 of Part 9 of under the Roads Act 1993; and (4) Be carried out in accordance with any approval under section 68, or be exempt from approval under any policy adopted by Council under section 161 of the Local Government Act 1993.	Approvals Policy for the Display of Goods on the Footpath
Mapping – Heritage, Lot Size, Land Zone	Refer to Part 4 for details on housekeeping mapping changes.	As lots have adjusted their boundary lines some mapping affectations have not been updated accordingly to reflect the new cadastre and lot outline. This proposal seeks to amend these minor inconsistencies.
Mapping – Terrestrial Biodiversity Map	Refer to Part 4 for details on terrestrial biodiversity mapping changes.	1 Council-owned site and a minor portion along the rear boundary of 1 privately owned site has been identified on the recent 2020 remnant vegetation map (non-LEP map), so needs to be added to the WLEP Terrestrial Biodiversity Map for consistency.

Waverley Local Planning Panel

The Waverley Local Planning Panel (WLPP) considered this Planning Proposal at a meeting held on 28 February 2024 and have provided the following advice:

“Resolution

For the reasons outlined in the Council officer’s report, the Panel:

- *Recommends Council separate the Planning Proposal into two parts, with the amendments to Clause 4.4A placed into one Planning Proposal and the remaining amendments to be placed in another Planning Proposal. This is to ensure that the amendment to Clause 4.4A is expedited and not be categorised as a Principal LEP amendment.*
- *Advises Council to consider amendments to the Draft Display of Goods on the Footpath Local Approvals Policy to:*
 - *ensure that it is not too restrictive, in particular, review the 0.6m depth for goods displays to allow greater flexibility and ensure that the focus is on the outcome, being a clear path of travel of a certain width.*
 - *be consistent with the DCP controls for Footpath Dining, in particular review the 2m clear path of travel dimension to be 2.5m consistent with the DCP control for Outdoor seating*
 - *allow kerbside displays as only permitted when there is a predominance of kerbside dining / displays and a clear path of travel is maintained, and*

Subject to the above recommendations, the Planning Panel recommends to Council that the Planning Proposals should proceed to Gateway Determination and public exhibition.”

A response to the issues raised are addressed in the table below.

Table 3 – Response to WLPP Feedback

Matter	Response
<i>Recommends Council separate the Planning Proposal into two parts, with the amendments to Clause 4.4A placed into one Planning Proposal and the remaining amendments to be placed in another Planning Proposal. This is to ensure that the amendment to Clause 4.4A is expedited and not be categorised as a Principal LEP amendment.</i>	<ul style="list-style-type: none"> Council will separate the planning proposal into two separate planning proposals, as described, following Council’s resolution and before the planning proposal is forwarded to The Department for gateway determination.
<i>Ensure that it is not too restrictive, in particular, review the 0.6m depth for goods displays to allow greater flexibility and ensure that the focus is on the outcome, being a clear path of travel of a certain width.</i>	<ul style="list-style-type: none"> The Draft Display of Goods on the Footpath Local Approvals Policy has been amended to allow displays up to 1m deep, provided that the specified clear path of travel is maintained, along side all other hazard reduction measures of the policy.
<i>Be consistent with the DCP controls for Footpath Dining, in particular review the 2m clear path of travel dimension to be 2.5m consistent with the DCP control for Outdoor seating</i>	<ul style="list-style-type: none"> The Draft Display of Goods on the Footpath Local Approvals Policy has been amended to increase the 2m clear path of travel to 2.5m, consistent with the DCP control for Outdoor seating. The minimum setback from the kerb has also been amended from 0.6m to 1m to be more consistent with the required 1.5m setback for Outdoor seating.
<i>allow kerbside displays as only permitted when there is a predominance of kerbside dining / displays and a clear path of travel is maintained, and</i>	<ul style="list-style-type: none"> The Draft Display of Goods on the Footpath Local Approvals Policy has been amended to reinforce that kerbside displays are only permitted when if existing business uses on the street block, such as outdoor dining, are already located on the kerbside

PART 3 – JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT

This section details the reasons for the proposed LEP amendment and is based on a series of questions and matters for consideration as outlined in the LEP Making Guidelines (August 2023). The issues to be addressed include the strategic planning context of the amendments, Strategic Merit, Site-Specific Merit, potential State and Commonwealth agency interests, and environmental, social and economic impacts.

Table 4 – Assessment of Proposal against Strategic Merit Test

a) Does the proposal:	
Give effect to the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, and/or a corridor/precinct plan applying to the site. This includes any draft regional, district or corridor/precinct plans released for public comment or a place strategy for a strategic precinct including any draft place strategy; or	Yes, it is consistent with the Greater Sydney Regional Plan and Eastern City District Plan as discussed later this in this report.
Demonstrate consistency with the relevant LSPS or strategy that has been endorsed by the Department or required as part of a regional or district plan; or	Yes, it is consistent with the Waverley Local Strategic Planning Statement as discussed later this in this report.
Respond to a change in circumstances that has not been recognised by the existing planning framework.	The mapping-related changes proposed by this PP respond to a change in circumstances.

<p>Factors that lead to responding to a change in circumstances may include, but not exclusively relate to:</p> <ul style="list-style-type: none"> • Key infrastructure investment or opportunity to plan for future infrastructure unanticipated by the existing strategic planning framework • Response to key Government priorities – Premier’s Priorities, climate change, or a shift in government policy (e.g. NSW Government’s Net Zero Plan) • Changes to population and demographic trends and associated needs such as housing or jobs. 	<p>The Land Use Zone map is adjusting the zone of 3A Tamarama Street to encourage the logical consolidation and orderly development of sites, as the recent subdivision affecting adjoining properties has caused inconsistency.</p> <p>The Heritage and Lot Size Map-related changes respond to recent changes in cadastre and property boundaries produced by subdivisions and consolidations.</p> <p>The Terrestrial Biodiversity Map changes respond to newfound information relating to remnant vegetation, identifying that 5 Bay Street and adjoining Council land are in need of affectation on that map. The sites were identified within the recent <i>Waverley Biodiversity Action Plan: Remnant Sites 2022-2031</i> document. Specifically, the marked area consists of a remnant patch of Sea-cliff Grassland dominant in <i>Ficinia nodosa</i>. The patch is completely isolated and with a high density of exotic grasses.</p>
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Table 5 – Assessment of Proposal against Site Specific Merit Test

b) Does the proposal have site-specific merit, having regard to the following:	
<p>The natural environment on the site to which the proposal relates and other affected land (including known significant environmental areas, resources or hazards).</p>	<p>The majority of changes under this Planning Proposal seek to clarify or strengthen existing clauses, or rectify inaccuracies. As such, the changes are not expected to result in any realised impact upon the natural environment, need for services and infrastructure, or any change to the built form of development.</p> <p>The goods on the footpath local approvals policy that is supplementary to the additions to schedule 2 (display of goods on the footpath) contain display guidelines designed to minimise negative environmental impacts.</p>
<p>Existing uses, approved uses, and likely future uses of land in the vicinity of the land to which the proposal relates</p>	<p>The proposed changes will not alter existing, approved or likely future uses. Whilst 3A Tamarama Street is proposed for a zone change from R3 to R2, the site is too small to facilitate any development by itself so its development opportunity is unchanged by the land zone shift.</p>
<p>Services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.</p>	<p>The proposal will not result in any additional use of or need for infrastructure. No changes to housing capacity are proposed.</p>

3.1 Is the Planning Proposal a result of any strategic study or report?

The majority of changes proposed under this Planning Proposal are not a result of a strategic study or report – rather a need to provide clarification or strengthen an existing provision based on feedback since original implementation of the particular clause being altered.

The Heritage, Lot Size and Land Use map changes are a result of land consolidation and subdivision, whereby the boundary lines and cadastre of each lot have slightly changed and the mapping affectation no longer matches the outline of the property.

The proposed Terrestrial Biodiversity mapping change is a result of the findings (see figures 1 and 2) of the *Waverley Biodiversity Action Plan: Remnant Sites 2022-2031*, which identified remnant vegetation in North Bondi which requires consideration under any future development.

The planning proposal is required to implement Council’s objective of allowing displays of retail goods on the public footways without the need for any approval from Council. Council has developed a draft local approvals policy for the purposes of undertaking the legislated concurrences and other steps required to implement the exempt development pathway. One of those steps is to prepare a planning proposal to ensure that displays of goods which meet Council’s criteria to not require development consent.



Figure 1 – Page 15 of the Waverley Biodiversity Action Plan: Remnant Sites 2022-2031

February 2022 Total Earth Care Pty Ltd

TABLE 2-4 – NORTH CLIFFTOP REMNANTS MANAGEMENT ZONES AND ACTIONS – DOUGLAS PARADE, BAY STREET AND SAM FISZMAN PARK

Zone	Priority	Description of Management Zone	Management Actions	Timing	Weed density	Key Performance Indicators (KPIs)	Role
North Clifftop Remnants – Douglas Parade, Bay Street and Sam Fiszman Park							
Remnant 28	Medium	Douglas Parade Consists of a remnant patch of Imperata Grassland. Patch is isolated by dense exotics, and houses, however has high resilience and will need frequent maintenance.	Targeted weeding – control WONS and priority weeds such as <i>Lantana camara</i> , <i>Asparagus aethiopicus</i> and <i>Anredera cordifolia</i> . Areas of dense woody weeds should be removed gradually in patches and concurrently with replacement planting. The adjacent areas should not be removed until planted species have grown to provide sufficient fauna habitat. This will also reduce erosion risk along the cliff edge. Target annual weeds before seeding to prevent germination. Primary works to target <i>Strelitzia</i> spp. in 28 buffer unlikely due to access, erosion and public interest.	Minimum of 4 visits per year.	5-30%	No reduction in remnant patches. Natural regeneration. Maintain weed density in core of remnant to <5%.	Trained bush regenerators
Remnant 218	Medium	Bay Street Consists of a remnant patch of Sea-cliff Grassland dominant in <i>Ficinia nodosa</i> . The patch is completely isolated and with a high density of exotic grasses. Without management actions, the remnant may be lost due to being overrun by weeds.	Targeted weeding – control woody weeds such as <i>Coprosma repens</i> and herbaceous weeds such as <i>Parietaria judaica</i> . Areas of dense woody weeds, such as <i>Coprosma repens</i> , should be removed gradually in patches and concurrently with replacement planting to provide a similar structure of habitat. The adjacent areas should not be removed until planted species have grown to provide sufficient fauna habitat. This will also reduce erosion risk along the cliff edge. Target annual weeds before seeding to prevent germination. Alternative management – potential alternative management actions at this site are sandstone capping in halos and planting, jute matting sections and planting or clearing the present weeds to expose the rock platform below. This method protects the remnant from weed incursions but will result in a temporary loss of fauna habitat. Staged sandstone capping in halos and planting allows for the maintenance and gradual replacement of weedy habitat with habitat provided by native species.	Minimum of 3 site visits in 2022 – 2023 FY and 2 per year for the following years.	>70%	Reduction of woody weeds. Containment.	Trained bush regenerators
Remnant 29	Medium	Sam Fiszman Park Consists of a remnant patch of Sea-cliff Grassland.	Targeted weeding – control woody weeds such as <i>Coprosma repens</i> and herbaceous weeds such as <i>Guzmania tomentosa</i> . Target annual weeds before seeding to prevent germination.	Minimum of 3 site visits in 2022 – 2023 FY and 2 per year for the following years (2024 –	30-70%	Reduce and maintain at <30%. Natural regeneration.	Trained bush regenerators

Figure 2 – Page 16 of the Waverley Biodiversity Action Plan: Remnant Sites 2022-2031

3.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal is the best means of achieving the identified objectives and intended outcomes as the updates largely concerns issues relating to current LEP clauses and mapping.

Not proceeding with the planning proposal would mean that to place a goods display on the public footway, a retail operator would potentially require development consent from Council. This is counter to the objective of reducing the regulatory burden on businesses in the Waverley LGA.

3.3 Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

The proposal is consistent with the objectives of a Metropolis of Three Cities Region Plan and the Eastern City District Plan as it is consistent with the applicable objectives and planning priorities as per the following tables.

Table 6 – Metropolis of Three Cities

Relevant Objectives	Comment
Objective 10 – Greater housing supply	Updating the wording of Cl 4.4A to allow attached and semi-detached dwellings to use the FSR formula currently in the clause will ensure that housing supply can be delivered in a reasonable scale that aligns with the site, rather than being restricted to the (in most cases) reduced FSR stipulated on the FSR Map which is better suited to other development types permitted on that land.

Objective 12 – Great places that bring people together	<p>Allowing for the display of goods on the street as exempt development is an important way to support the place functions of streets and translate walkable environments into the desirable characteristics identified in the objective like local business success and economic participation.</p> <p>This aspect of the planning proposal supports the balanced use of streets for movement and place, with the supporting Local Approvals Policy including minimum clear path of travel and separation distances from public transport stops, street furniture and other uses. The Local Approvals Policy enables more active uses of streets by also protecting their movement function and use by people of all ages and abilities.</p>
Objective 13 – Environmental heritage is identified, conserved and enhanced	Updating the Heritage Map to ensure that heritage items and heritage conservation area markings accurately cover the outline of affected sites will assist to reduce confusion surrounding the application of heritage provisions, and ensure that environmental heritage is identified, conserved and enhanced.
Objective 24 – Economic sectors are targeted for success	Allowing for the display of goods on the street as exempt development is related to tourism as a targeted economic sector. In line with Strategy 24.2, this aspect of the planning proposal supports the amenity, vibrancy and safety of centres, making retail high streets more interesting, vibrant and attractive for visitors.
Objective 25 – The coast and waterways are protected and healthier	<p>Updating the Terrestrial Biodiversity map to reflect newly identified remnant vegetation in North Bondi will ensure that future development on the affected area will need to consider impacts on the subject vegetation. This will provide greater protection to the vegetation, which also assists to provide a special scenic quality to the North Bondi coastline as the properties adjoin the coast.</p>
Objective 27 – Biodiversity is protected, urban bushland and remnant vegetation is enhanced	
Objective 28 – Scenic and cultural landscapes are protected	
Objective 35 – More waste is re-used and recycled to support the development of a circular economy	The strengthening of Cl 6.14 relating to waste management will ensure that more significant developments (not just brand new builds) will need to demonstrate a high level of waste management, which may assist to encourage the re-use and recycling of waste.

Table 7 – Eastern City District Plan

Relevant Planning Priorities	Comment
Planning Priority E5 – Providing housing supply, choice and affordability, with access to jobs, services and public transport	Updating the wording of Cl 4.4A to allow attached and semi-detached dwellings to use the FSR formula currently in the clause will ensure that housing supply can be delivered in a reasonable scale that aligns with the site, rather than being restricted to the (in most cases) reduced FSR stipulated on the FSR Map which is better suited to other development types permitted on that land.
Planning Priority E6: Creating and renewing great places and local centres, and respecting the District’s heritage	<p>Allowing for the display of goods on the footpath as exempt development will help reinforce the retail character of local areas, presenting more opportunities for local businesses to express their creativity and show what they have for sale. In this way the planning proposal delivers on the objectives of this planning priority to create streets that are destinations that people want to visit.</p> <p>Through the Local Approvals Policy and its clear expectations about clear path of travel and other minimum distances, the planning proposal delivers the balance of accessibility, connectivity and amenity discussed under this planning priority.</p>

Planning Priority E13: Supporting growth of targeted industry sectors	<p>Introducing an exempt development pathway for the display of goods on the footpath delivers on Action 62, which is to implement place-based initiatives to attract more visitors and improve visitor experiences.</p> <p>The visitor economy is included as a targeted industry sector in under this planning priority. The priority identifies the opportunity to support retail offerings in local neighbourhoods as a way to expand and diversify the Eastern District’s tourism offering. Outdoor goods displays are a way of supporting this kind of experiential and retail-oriented tourism offering in neighbourhood shopping streets.</p>
Planning Priority E15 – Protecting and enhancing bushland and biodiversity	<p>Updating the Terrestrial Biodiversity map to reflect newly identified remnant vegetation in North Bondi will ensure that future development on the affected area will need to consider impacts on the subject vegetation. This will provide greater protection to the vegetation.</p>
Planning Priority E19 – Reducing carbon emissions and managing energy, water and waste efficiently	<p>The strengthening of Cl 6.14 relating to waste management will ensure that more significant developments (not just brand new builds) will need to demonstrate a high level of waste management.</p>

3.4 Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GCC, or another endorsed local strategy or strategic plan?

The Planning Proposal is consistent with applicable local strategies and plans, as per the following tables.

Table 8 - Waverley Local Environmental Plan 2012

Relevant Aims Cl 1.2	Comment
To promote and co-ordinate a range of commercial, retail, residential, tourism, entertainment, cultural and community uses to service the local and wider community,	<p>Provisions relating to low density land use types will be clarified by this PP, by updating Cl 4.4A to make clear that the FSR formula relates to attached and semi-detached dwellings as the clause was originally intended to.</p> <p>Updates to Cl 4.3 in relation to building heights will also provide greater clarity surrounding the intention of the building height map figures, assisting to promote and co-ordinate development of all listed types.</p> <p>Additions to Schedule 2 allowing retail premises to display their goods on the footpath supports the aim of promoting a range of commercial, retail and tourism uses.</p>
To enhance and preserve the natural environment through appropriate planning, protecting the integrity of natural systems and by protecting existing trees,	<p>Updating the Terrestrial Biodiversity map to reflect newly identified remnant vegetation in North Bondi will ensure that future development on the affected area will need to consider impacts on the subject vegetation. This will provide greater protection to the vegetation.</p>
To identify, conserve and enhance the cultural, environmental, natural, aesthetic, social and built heritage, and existing scenic and cultural landscapes of Waverley, including the curtilage of Centennial Park, for current and future generations,	<p>Updating the Heritage Map to ensure that heritage items and heritage conservation area markings accurately cover the outline of affected sites will assist to reduce confusion surrounding the application of heritage provisions, and ensure that environmental heritage is identified, conserved and enhanced.</p>

To promote waste avoidance, waste minimisation and resource recovery,	The strengthening of CI 6.14 relating to waste management will ensure that more significant developments (not just brand new builds) will need to demonstrate a high level of waste management.
To achieve high quality public domain with significant tree canopy and accessible open space,	Additions to Schedule 2 allowing retail premises to display their goods on the footpath will contribute to quality public spaces, aligning with the LEP aim to achieve high quality public domain.

Table 8 – Waverley Local Strategic Planning Statement (March 2020)

Relevant Planning Priorities	Comment
5. Increase the sense of wellbeing in our urban environment	Additions to Schedule 2 allowing retail premises to display their goods on the footpath creates more vibrant and attractive streetscape, increasing the sense of wellbeing in our urban environment. The addition also aligns with the planning principle of promoting walking and cycling along key routes by improving amenity and safety.
6. Facilitate a range of housing opportunities in the right places to support and retain a diverse community.	Provisions relating to low density land use types will be clarified by this PP, by updating CI 4.4A to make clear that the FSR formula relates to attached and semi-detached dwellings as the clause was originally intended to. Updates to CI 4.3 in relation to building heights will also provide greater clarity surrounding the intention of the building height map figures, assisting to promote suitable scales of residential and other development.
7. Recognise and celebrate Waverley's unique place in the Australian contemporary cultural landscape	Updating the Heritage Map to ensure that heritage items and heritage conservation area markings accurately cover the outline of affected sites will assist to reduce confusion surrounding the application of heritage provisions, and ensure that environmental heritage is identified, conserved and enhanced. Doing so will preserve significant local character. Further, adding remnant vegetation to the Terrestrial Biodiversity map will protect the character and natural features of the coast, protecting scenic qualities.
8. Connect people to inspiring and vibrant places, and provide easy access to shops, services, and public transport	Additions to Schedule 2 allowing retail premises to display their goods on the footpath connects more people to more vibrant and inspiring places across the LGA.
13. Protect and grow our areas of biodiversity and connect people to nature	Updating the Terrestrial Biodiversity map to reflect newly identified remnant vegetation in North Bondi will ensure that future development on the affected area will need to consider impacts on the subject vegetation. This will provide greater protection to the vegetation.

Table 9 – Waverley Local Housing Strategy

Relevant Priorities	Comment
H1. Manage housing growth sustainably and in the right locations	Provisions relating to low density land use types will be clarified by this PP, by updating CI 4.4A to make clear that the FSR formula relates to attached and semi-detached dwellings as the clause was originally intended to. This will ensure that low density streetscapes have a consistent character.
H5 Ensure new development is consistent with desired future character	Updates to CI 4.3 in relation to building heights will also provide greater clarity surrounding the intention of the building height map figures, assisting to promote suitable scales of residential and other development.

Table 10 – Waverley Community Strategic Plan 2022-2032

Relevant Direction or Strategy	Comment
2.4 Protect and increase our local bushland, parks, urban canopy cover and habitat areas.	Updating the Terrestrial Biodiversity map to reflect newly identified remnant vegetation in North Bondi will ensure that future development on the affected area will need to consider impacts on the subject vegetation. This will provide greater protection to the vegetation.
2.6 Control and manage development to protect the intrinsic values of the community including aesthetics, size, heritage and population.	Updating the Heritage Map to ensure that heritage items and heritage conservation area markings accurately cover the outline of affected sites will assist to reduce confusion surrounding the application of heritage provisions, and ensure that environmental heritage is identified, conserved and enhanced. Doing so will protect the intrinsic heritage value of the LGA. Provisions relating to low density land use types will be clarified by this PP, by updating CI 4.4A to make clear that the FSR formula relates to attached and semi-detached as the clause was originally intended to. This will protect the aesthetic value of the LGA as bulk and scale is managed. Updates to CI 4.3 in relation to building heights will also provide greater clarity surrounding the intention of the building height map figures, assisting to promote suitable scales of residential and other development.
2.6.5. Create a thriving, flourishing, accessible and liveable destination with great public spaces and buildings, public art, and walkable streets that engage and excite everyone	The introduction of the display of goods on the footpath as exempt development is consistent with this direction, as it aims to create engaging and exciting walkable public streets that maintain accessibility.
2.11. Move towards a sustainable waste community and a circular economy	The strengthening of CI 6.14 relating to waste management will ensure that more significant developments (not just brand new builds) will need to demonstrate a high level of waste management, which may assist to encourage the re-use and recycling of waste.

3.5 Is the Planning Proposal consistent with any other applicable State and regional studies or strategies?

There are no other relevant State or regional studies or strategies.

3.6 Is the Planning Proposal consistent with applicable SEPPs?

This Planning Proposal is consistent with applicable State Environmental Planning Policies. Assessed the Planning Proposal against the State Environmental Planning Policies SEPPs:

Table 11 – Assessment of Proposal against the SEPPs

Title	Applicable	Comment
Housing SEPP	N/A	The PP will not impact the application of this SEPP in the LGA.
Design Quality of Residential Apartment Development – SEPP 65	N/A	The PP will not impact the application of this SEPP in the LGA.
Exempt and Complying Development Codes SEPP	Yes	The PP will provide an exempt development pathway for the display of goods on the footpath. This PP is consistent with the objectives of this SEPP and will not impede its application.

Title	Applicable	Comment
		Exempt and complying development was already not possible for 5 Bay Street and the adjoining Council-owned land as these sites are marked as subject to geotechnical hazard risk, so the proposed new Terrestrial Biodiversity affectation will not impact the ability to undertake exempt or complying development further.
Transport and Infrastructure SEPP	N/A	The PP will not impact the application of this SEPP in the LGA.
Primary Production SEPP	N/A	The PP will not impact the application of this SEPP in the LGA.
Biodiversity and Conservation SEPP	N/A	The PP will not impact the application of this SEPP in the LGA.
Resilience and Hazards SEPP	N/A	The PP will not impact the application of this SEPP in the LGA.
Industry and Employment SEPP	N/A	The PP will not impact the application of this SEPP in the LGA.
Resources and Energy SEPP	N/A	The PP will not impact the application of this SEPP in the LGA.
Planning Systems SEPP	N/A	The PP will not impact the application of this SEPP in the LGA.
Sustainable Buildings SEPP	N/A	The PP will not impact the application of this SEPP in the LGA.
Precincts SEPPs: Eastern Harbour City SEPP, Western Parkland City SEPP, Central River City SEPP and Regional SEPP	N/A	The PP will not impact the application of this SEPP in the LGA.

3.7 Is the Planning Proposal consistent with applicable Ministerial Directions (section 9.1 Directions) or key government priority?

The proposal is consistent with applicable Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979 as outlined in the below table.

Table 12 – Assessment of Proposal against Ministerial Direction

Ministerial Direction	Relevance	Consistency
1.3 Approval and Referral Requirements.	<p>A planning proposal to which this direction applies must:</p> <ul style="list-style-type: none"> minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of the appropriate Minister, public authority and/or the Planning Secretary. not identify development as designated development unless the relevant planning authority: <ul style="list-style-type: none"> can satisfy the Planning Secretary (or an officer of the Department nominated by the 	<p>The proposal as it relates to exempt development provisions for the display of goods on the footpath is consistent with this direction.</p> <p>Concurrence with public authorities is required to implement a robust exempt development framework via the implementation of a supplementary local approvals policy.</p>

	Secretary) that the class of development is likely to have a significant impact on the environment, and has obtained the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act.	Concurrence will only be sought with approval of the Department of Planning, Housing and Infrastructure.
3.2 Heritage Conservation	A planning proposal must contain provisions that facilitate the conservation of: (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.	The proposal protects the conservation of significant sites by correcting boundary inconsistencies.
6.1 Residential Zones	A Planning Proposal must include provisions that encourage the provision of housing that will: <ul style="list-style-type: none"> • Broaden the choice of building types and locations available in the housing market, • Make more efficient use of existing infrastructure and services, and • Reduce the consumption of land for housing and associated urban development on the urban fringe and • Be of good design. 	The proposal is consistent with the objectives of this direction as clarity surrounding FSR, building height and lot size controls will be provided – assisting to manage the scale of housing.

3.8 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

No, there are not expected to be any adverse impacts on critical habitat or threatened species, populations or ecological communities, or their habitats as a result of this Planning Proposal. Rather, the addition of a new Terrestrial Biodiversity mapping affectation to cover remnant vegetation in North Bondi will improve the conditions for such species, populations and communities.

3.9 Are there any other likely environmental effects of the Planning Proposal and how are they proposed to be managed?

There are unlikely to be any other environmental effects as a result of the Planning Proposal.

3.10 Has the Planning Proposal adequately addressed any social and economic effects?

The Planning Proposal has adequately addressed the relevant social and economic effects arising from the objectives and intended effects of the proposal.

In relation to the provision of goods on the footpath as exempt development, the proposal has the potential to provide numerous economic benefits by supporting small businesses in the Waverley LGA. Social benefits are likely from increased activation of streets in the LGA and include improved perception of community safety through increased activity on streets.

Potential negative impacts relate to universal accessibility, pedestrian amenity and safety due to footway congestion. These have been addressed by the approval criteria contained in the local policy supplementary to this proposal. The approval criteria preserve a clear path of travel for pedestrians, and limits the size and contents of displays to ensure they have minimal impact.

Other social and economic effects of this Planning Proposal are expected to be negligible, as the remaining changes proposed are either of a minor administrative nature or strengthen an existing control,

3.11 Is there adequate public infrastructure for the Planning Proposal?

There is adequate public infrastructure for the Planning Proposal and the planning proposal will not lead to a need for greater public infrastructure.

In relation to the provision of goods on the footpath as exempt development, the supplementary local approvals policy is designed in such a way that where there is inadequate public infrastructure (i.e. the footpath being too narrow), the exempt development of display of goods is prohibited.

3.12 What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

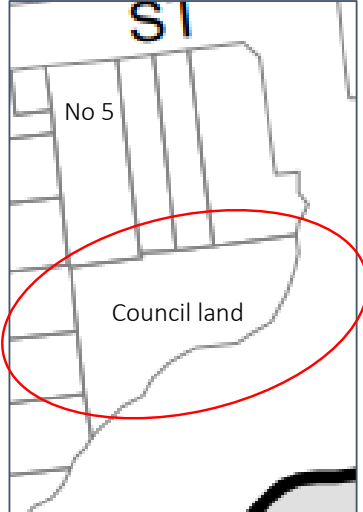
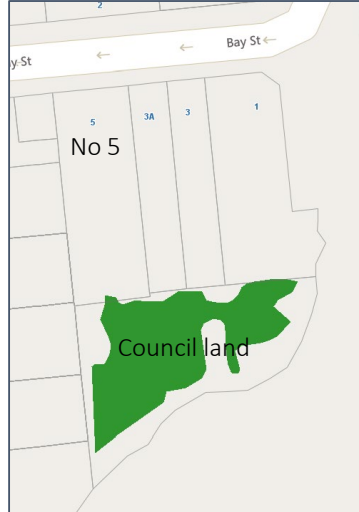
Consultation with public authorities and government agencies can be undertaken in line with the future Gateway determination, if granted.

PART 4 – MAPPING

The following mapping changes are proposed under this Planning Proposal:

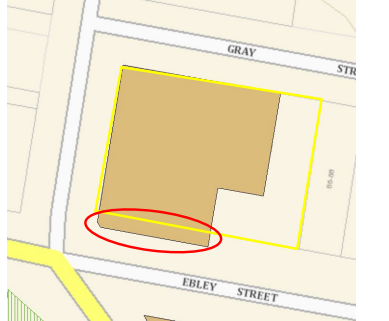
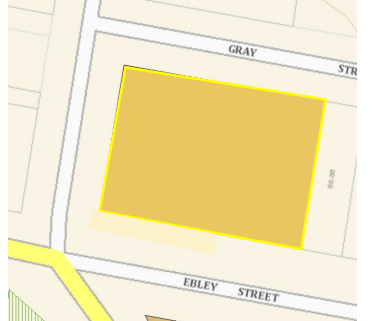
Terrestrial Biodiversity Map

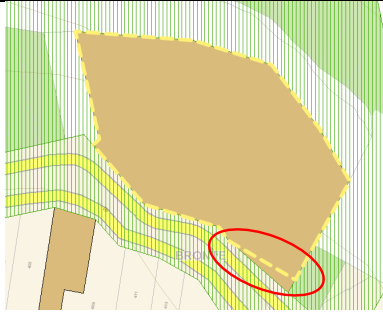
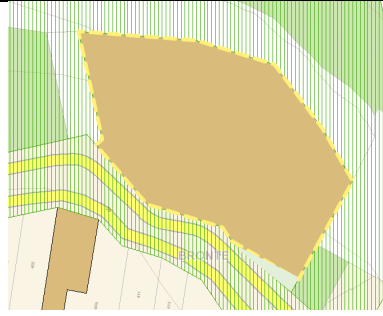
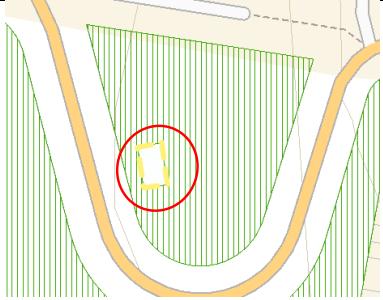
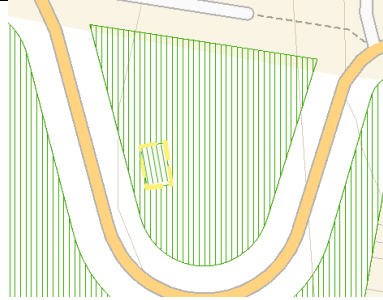
Updating the Terrestrial Biodiversity map to reflect newly identified remnant vegetation in North Bondi will ensure that future development on the affected area will need to consider impacts on the subject vegetation. This will provide greater protection to the vegetation, which also assists to provide a special scenic quality to the North Bondi coastline as the properties adjoin the coast.

Property and Change	Current	Proposed
<p>The <i>Waverley Biodiversity Action Plan: Remnant Sites 2022-2031</i> document identified a remnant patch of Sea-cliff Grassland dominant in <i>Ficinia nodosa</i> in North Bondi. Therefore it is proposed that the terrestrial biodiversity affectation be applied to this area, falling upon:</p> <ul style="list-style-type: none"> • Lot C DP 331848 (5 Bay Street, North Bondi) • Lot 2 DP 530991 (Council Land) 	 <p>The current map shows a grid of lots. Lot No 5 is at the top. Below it, a larger area is labeled 'Council land'. This area is circled in red. A large 'SI' is written at the top of the map.</p>	 <p>The proposed map shows the same area as the current map. The 'Council land' area is now shaded in green. Lot No 5 is visible above it. 'Bay St' is labeled at the top right.</p>

Heritage Map

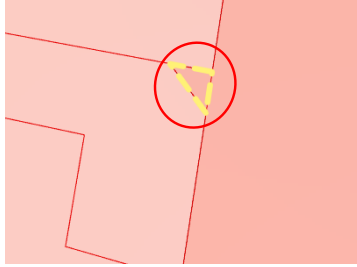
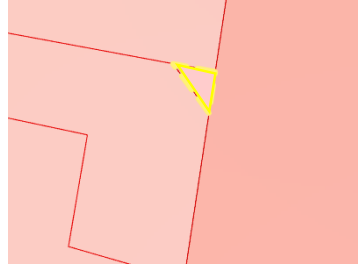
Updating the Heritage Map to ensure that heritage items and heritage conservation area markings accurately cover the outline of affected sites will assist to reduce confusion surrounding the application of heritage provisions, and ensure that environmental heritage is identified, conserved and enhanced.

Property and Change	Current	Proposed
<p>Adjust heritage item affectation at 30 Bronte Road, Bondi Junction (Lot 2, DP 1297720) to reflect the new lot boundaries.</p> <p>It has been skewed due to a recent subdivision of land.</p>	 <p>The current map shows a street grid with 'GRAY STR' and 'EBLEY STREET'. A brown-shaded area representing a heritage item is shown. Its boundary is skewed and irregular. A red circle highlights a portion of this skewed boundary.</p>	 <p>The proposed map shows the same street grid. The brown-shaded area is now a more regular, rectangular shape that correctly follows the lot boundaries. The red circle from the current map is no longer present.</p>

<p>Adjust heritage item affectation at 470 Bronte Road, Bronte (Lot 1 DP123571) to remain inside the property boundary.</p> <p>It has been skewed due to a recent boundary realignment.</p>		
<p>Adjust the landscape heritage item at Victoria Park, Queens Park to cover the entire park. Affecting Lot 1594 DP 752011.</p> <p>The excluded area used to contain a Boy Scout Hall, however, the hall has since been demolished.</p>		

Land Zone Map

Updating the Land Zone Map in relation to 3A Tamarama Street, Tamarama will ensure for the orderly development of land.

Property and Change	Current	Proposed
<p>Change 3A Tamarama Street, Tamarama (Lot 2 DP 1188291) from R3 Medium Density Residential to R2 Low Density Residential to align with the zone of 3 and 5 Tamarama Street.</p> <p>3A Tamarama Street is owned by the same owner at No. 5, so the zone alignment is logical.</p>		

Lot Size Map

Updating the Lot Size Map will ensure that properties affected by the map will be marked in a consistent manner. Specifically ensuring that each lot is only affected by one single minimum lot size figure, rather than a combination or partially marked.

Property and Change	Current	Proposed
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<p>Apply a minimum lot size of 232sqm to all of 575 Old South Head Road, Rose Bay (Lot 1, DP 1289792).</p> <p>232sqm is consistent with all sites fronting Old South Head Road.</p> <p>This discrepancy is a result of a recent site consolidation.</p>		
<p>Remove the minimum lot size affectation to the public land behind 10 and 12 Mill Hill Road (Lot 13 DP 1054446 and Lot 1 DP 996225).</p> <p>This discrepancy is likely a result of a historical boundary adjustment.</p>		
<p>Apply the minimum 325sqm lot size to all of 24-32 Flood Street, Bondi (Lot 1, DP 1250701).</p> <p>This discrepancy is a result of a recent site consolidation.</p>		
<p>Apply a minimum lot size of 500sqm to all of 58 Military Road (SP 104691).</p> <p>This discrepancy is likely a result of a historical consolidation.</p>		

PART 5 – COMMUNITY CONSULTATION

Public exhibition is likely to include at minimum a display on the Council’s website. The gateway determination will specify the level of public consultation that must be undertaken in relation to the Planning Proposal.

Pursuant to Division 3.4 of the Act, a Planning Proposal must be placed on public exhibition for a minimum of 28 days, or as specified in the gateway determination for the proposal. The Planning Proposal Authority must consider any submissions made concerning the proposed instrument and the report of any public hearing.

PART 6 – PROJECT TIMELINE

The following indicative project timeline will assist with tracking the progress of the Planning Proposal through its various stages of consultation and approval. It is estimated that this amendment to WLEP will be completed by late 2024.

The detail around the project timeline is expected to be prepared following the referral to DPPH for a Gateway Determination.

Table 13 – Indicative project timeline

Tasks	Timeframe and/or date
Consideration by Council	February and March 2024
Council decision	March 2024
Gateway Determination	April 2024
Pre-exhibition	April 2024
Commencement and completion of public exhibition period	May - June 2024
Consideration of submissions	July 2024
Post-exhibition review and additional studies	August 2024
Submission to the Department for finalisation (where applicable)	October 2024
Gazettal of LEP amendment	November 2024



WAVERLEY
COUNCIL



DISPLAY OF GOODS

ON THE FOOTPATH

Local Approvals Policy

Waverley Council

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Bondi Junction NSW 1355
Phone: (02) 9083 8000 (General Enquiries)
Email: info@waverley.nsw.gov.au
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Waverley Display of Goods on the footpath
(Local Approvals Policy) is published by Waverley Council.

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Amendment No.	Date of Adoption	Date of Effect	Amendment Description
0	XX XX XXX	XX XX XXXX	Establishment of this Local Approvals Policy

Background

Waverley Council has long supported local businesses in the use of the footpath outside their premises for regulated and approved footway dining. Supporting the use of the footpath for the display of goods contributes to vibrant and active streetscapes.

This policy further supports local businesses in the use of the footpath for the display of goods, resulting in the activity being exempt from development approval.

Purpose

The purpose of this Policy is to set out the conditions under which Council will allow goods to be displayed on the footpath and other similar public spaces, without development approval. Note that A one-time application fee and yearly permit fee applies as per Council's Fees and Charges Policy for the use of the footpath.

This Policy establishes rules and a regulatory framework for use of the footway for displaying goods. It establishes the distances from street furniture and other obstacles that must be maintained, the clear path of travel that must be maintained, expectations over the management and maintenance of goods displays, and restrictions over the types of goods that can be displayed.

Scope

This policy applies to all business in the Waverley LGA who seek to display goods on the footpath outside of their premises.

Policy context

This is a Local Approvals Policy under *Part 3 'Adoption of local policies concerning approvals and orders'* of the *Local Government Act 1993*, comprising three parts:

Part 1 – Exempt from approval

Part 1 details the circumstances where a display of goods does not require approval from Council. Where the display of goods meets all the criteria in this section, no approval is required from Council. A one-time application fee and yearly permit fee applies as per Council's Fees and Charges Policy for the use of the footpath.

Part 2 – Criteria for approval

There are no criteria for giving or refusing an approval. If a display does not meet the criteria in Part 1, no approvals are available and the display is not permitted.

Part 3 – Other matters for approval

There are no other matters relating to approvals.

Part 1 – Exempt from development

A display is exempt from approval if it meets the following criteria:

1.1. Owner's Consent and Payment Form

A one-time processing fee and yearly permit fee applies as per Council's Fees and Charges Policy for the use of the footpath.

Retail premises must submit an [owner's consent and payment form](#) and make payment to Council for the occupation of the footpath before displaying goods on the footpath.

1.2. Areas where displays are prohibited

Display is prohibited in the following areas:

- Grosvenor Street, between Grafton Street and Oxford Street
- Oxford Street, between Grosvenor Street and Waverley Street

As shown in figure 3

1.3. Clear path of travel for pedestrians

The display should be located to allow for a consistent and predictable clear path of travel along the whole of the street block.

The clear path of travel must be at least 2.5 metres wide.

An example of a clear path of travel is shown in Figure 1.

1.4. Location of the display

The display should be located against the building side of the shop and cannot be located outside adjacent properties or adjoining premises.

When located on the building side, the display must leave:

- an unobstructed accessway into the shop; and
- unobstructed access to any fire safety measure (including fire exit, fire door, or pathway to a fire exit or fire door).

1.5. Kerbside displays

The display of goods will generally only be allowed on the building side of a footpath. However, kerbside displays may be allowed in the following circumstances:

- If the road is not a classified road as defined under the *Roads Act 1993*
- If existing business uses on the street block, such as outdoor dining, are already located towards the kerb
- If it is set back 1 metre from the kerb to enable unobstructed access for car passengers

When located on the kerbside, the display must:

- occupy no more than 60% of the total street frontage of the shop; and
- have regular breaks of 1.2 metres every 2.4 metres.

This is to allow unobstructed access to the kerb

1.6. Clearances around the display

In addition to the clear path of travel for pedestrian traffic, the display should maintain clearances in all directions around the following items:

- 0.5 metres from any tactile ground service indicators
- 1 metre from any service object including fire hydrant, utility pit, vents, drains, public seat, bike rack or ring, pay phones, parking meters, rubbish bins and the like;
- 1 metre from pedestrian and signalised crossings, kerb ramps, driveways, any landscaped area, street tree pit or grate;
- 2 metres from the corner alignment of the building at street intersections (as shown in Figure 1). This is to allow for a clear line of sight from the intersection; and
- 3 metres from bus zones, public transport access points and taxi stands.

1.7. Display structure – dimensions

The goods should be displayed on a structure or stand:

- no more than 1 metre deep, when measured perpendicular to the shopfront or building line;
- with the lowest 60 millimetres being solid to be detectable with a cane, and with colour and luminance contrast of at least 30%, to allow them to be identified by pedestrians with low vision; and
- no less than 0.5 metres high to avoid being a tripping hazard, and
- no more than 1.2 metres high (including the goods) when located on the kerb side, to allow views between the road, the footway and the building.

1.8. Display structure – design

The display structure or stand is to be designed:

- to keep the street tidy and free of clutter, with no objects hanging or protruding from the structure into the footway;
- to be durable and weather resistant;
- to prevent goods being blown about by wind;
- so as not to compromise trolleys, shopping baskets, crates or packing boxes;
- without electrical or battery power, sound amplification, lighting, heating or refrigeration; and
- without mirrored or overly reflective surfaces.

1.9. Goods on display

The goods on display:

- are to be normally found for sale in the adjacent shop;
- do not emit noise or vibration that could cause annoyance, for example operating radios or electronic toys, and
- are to comply with any regulations ensuring the display of items is free from contamination, for example the Food Act 2003 for displays containing food.

The display must not contain the following goods for sale:

- furniture or white goods
- sharp, dangerous, or protruding items (for example, uncovered hardware items);
- goods that may damage or stain the pavement (for example, oils or dyes);
- perishable foods (including meat, fish shellfish, poultry, dairy or cooked rice) other than fresh fruit and vegetables;
- restricted literature or goods, where restricted means publications classified Category 1 restricted, Category 2 restricted or RC under the Classification (Publications, Films and Computer Games) Act 1995 (Cth).

1.10. Hours of Display

The display must be removed from the footway at least 30 minutes prior to the cessation of trade for the parent tenancy or premises.

Where a premises is approved to trade between 10.00pm and 7.00am the next day, the goods shall be removed from the footway for this period.

At the cessation of trade on any given day, the footway shall be cleared of all displays and goods and the footway is left in a clean and tidy manner. Failure to comply may result in revoking of permit for use of footway.

1.11. Use of the display

The display is not to be used for:

- conducting sales transactions;
- spruiking or broadcasting or amplified sales messages on the footway, or from within the shop so they can be heard on the footway; or
- for advertising, except where it relates to the items on display.

1.12. Maintenance of the display

The display structure:

- must not be attached to the footway, street poles, or any other street furniture or infrastructure with metal bolts, padlocks, chains or the like;
- must not damage the surface of the footway, including when it is being moved at the start and end of trading;
- is to be kept clean and tidy; and
- is to be kept in good repair and free of broken elements.

1.13. Insurance

The operator of the display must have a current public liability insurance policy covering the display, with a minimum value of \$20 million. For displays on a classified road, the insurance policy must note the interests of Transport for NSW.

1.14. Removal of display

The road authority (Council or Transport for NSW) can request the goods display be removed if:

- the conditions of this policy are breached;
- the display is compromising public safety or public access;
- the footway area is needed for public works;
- the footway area is needed for a special event;
- the footway area is needed to manage an increase in pedestrians;
- the footway is needed for the installation of construction hoardings and scaffoldings; or
- the footway is needed to support pedestrian flow.

Figure 1 – Diagram of clearance requirements

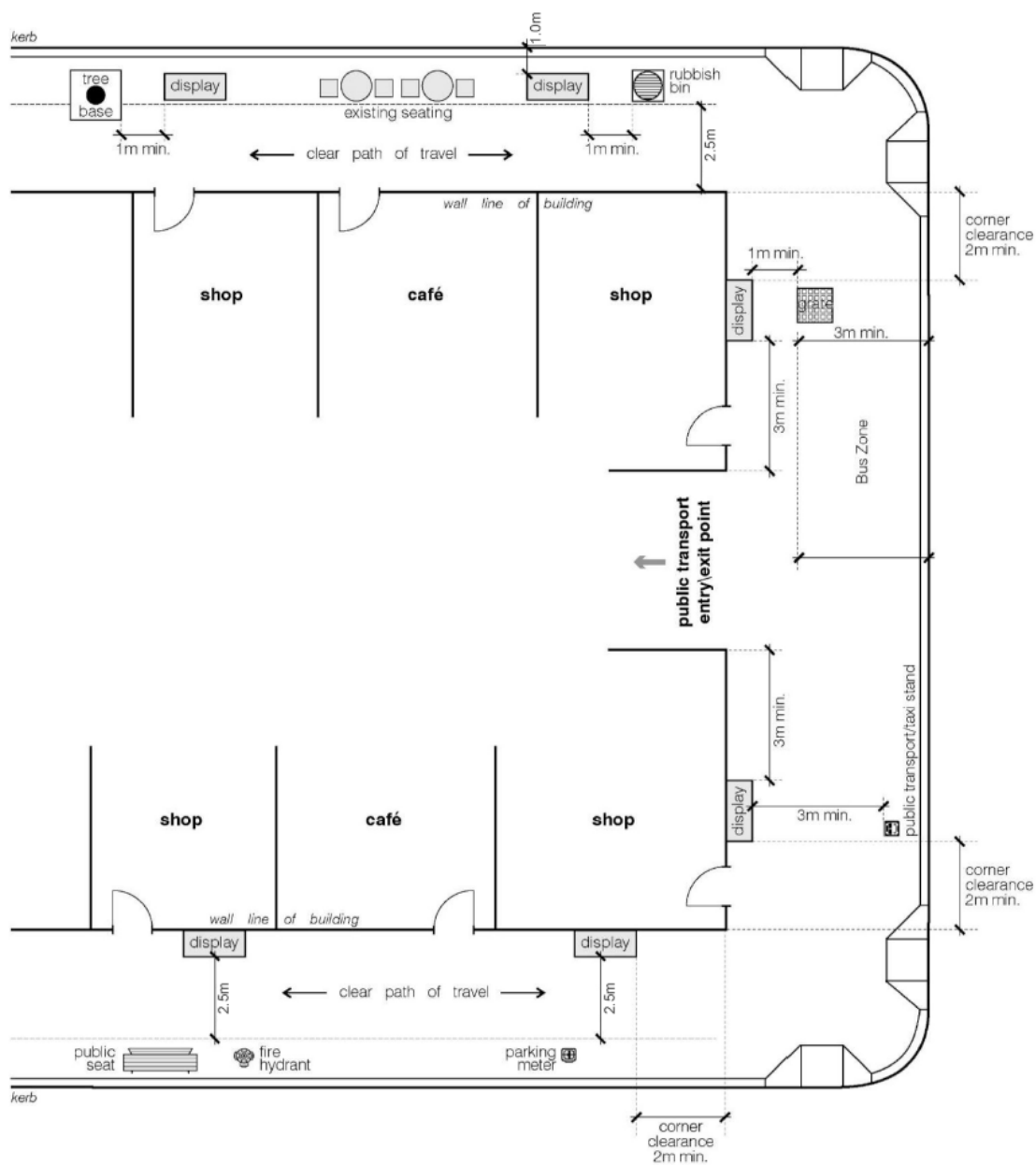


Figure 1 not to scale.

Part 2 – Criteria for approvals

There are no criteria for giving or refusing of an approval.

If the display does not meet the criteria under Part 1, it is not permissible, and no approval will be granted.

Part 3 – Other matters for approvals

There are no other matters relating to approvals.

Appendix

A.1. Areas where displays are prohibited

Figure 2 - Map of Classified Roads in Waverley



Figure 3 - Map of Areas Where Displays are Prohibited



A.2. Notes of general concurrence

Appendix will include general concurrence notes from the state government following post gateway concurrence procedure.

REPORT CM/7.3/24.03



WAVERLEY
COUNCIL

Subject: Planning Agreement - 154 Ramsgate Avenue, North Bondi

TRIM No: SF24/38

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 154 Ramsgate Avenue, North Bondi, offering a total monetary contribution of \$238,920, with \$179,190 (75%) to be allocated to the North Bondi Shops and Bus Terminus Upgrade and \$59,730 (25%) to be allocated to Waverley's Affordable Housing Program, 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 the approved development application DA-152/2021/B at 154 Ramsgate Avenue, North Bondi. The application was approved as follows:

Table 1. Approval details.

Item	Approved DA-152/2021/B
Development description	Demolition of existing structures and construction of a three storey residential flat building with basement parking and modification to alter internal layout, front and rear extension, open space reconfiguration.
Maximum permissible GFA and FSR	286.5 sqm GFA, equating to an FSR of 0.6:1
Approved GFA and FSR under DA-152/2021	448.9 sqm GFA, equating to an FSR of 0.94:1
Approved GFA and FSR under DA-152/2021/B	503.2 sqm GFA, equating to an FSR of 1.054:1
GFA exceedance	Modification B proposes an increase in GFA from the original DA (DA-152/2021) of 54.3 sqm, resulting in the modified development exceeding the permissible GFA by 75.6%.

The draft planning agreement associated with the development application was placed on public exhibition 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 \$238,920 in accordance with Council's Planning Agreement Policy.

A planning agreement was offered and paid in relation to the original DA-152/2021. As the modification DA-152/2021/B increases the GFA further, an additional VPA is now applicable.

3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Council 17 May 2022	CM/7.7/22.05	That Council: <ol style="list-style-type: none"> 1. Endorses the draft planning agreement attached to the report applying to land at 154 Ramsgate Avenue, North Bondi, offering a total monetary contribution of \$260,862, with \$195,646.50 (75%) to be allocated to Bondi Park works, including upgrades to Biddigal Reserve, sea walls and/or the ocean pools, and \$65,215.50 (25%) to be allocated to the Waverley Affordable Housing Program (25%) in accordance with Council's Planning Agreement Policy. 2. Authorises the Mayor and General Manager to sign and execute the agreement and affix the Council seal to the documentation.

4. Discussion

Planning agreement's monetary contribution to a public purpose

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 \$238,920 with \$179,190 (75%) to go towards the North Bondi Shops and Bus Terminus Upgrade and \$59,730 (25%) to go to Waverley's Affordable Housing Program, in accordance with Council's Planning Agreement Policy 2014.

The contribution is expected to support infrastructure improvements within North Bondi and affordable housing across the local government area. The decision to allocate funding is based on a review of feedback received from consultation to confirm community needs and wants and target additional funding to maximise benefit to the community.

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 29 January 2024 to 3 March 2024, and included:

- Advertising on Council's Have Your Say (HYS) website.
- Email notice to Precincts and Councillors
- Feature in HYS newsletter.

Submissions

One submission was received during the exhibition period, which was in support of the proposal in its current form.

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 \$238,920, in accordance with Council's Planning Agreement Policy 2014.

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 planning agreement.

7. Attachments

1. Planning agreement [↓](#)

WAVERLEY COUNCIL

(Council)

AND

**RA NO.7 PTY LTD
(ACN 600 896 624)**

SHALEV ASSOULINE

HADAREL ASSOULINE

AND

NATALIE ASSOULINE

(Developers)

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

2024

PARTIES

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

RA NO.7 PTY LTD (ACN 600 896 624) of Level 2, 59 Wentworth Avenue, Kingston ACT 2604

SHALEV ASSOULINE of Suite 2, Level 1, 10 Elizabeth Street, Paddington NSW

HADAREL ASSOULINE of Suite 2, Level 1, 10 Elizabeth Street, Paddington NSW **AND**

NATALIE ASSOULINE of Suite 2, Level 1, 10 Elizabeth Street, Paddington NSW ("**Developers**")

BACKGROUND/RECITALS

- A.** The Developers are the registered proprietors 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.** On 5 October 2022, the Developers lodged a Development Application with Council to modify DA-152/2021 approved by the Land and Environment Court on 14 February 2022 and subsequently modified by DA-152/2021/A on 19 July 2022.
- D.** On 6 December 2022, the Developers commenced court action with the Land and Environment Court.
- E.** On 23 November 2023, the Developers made an offer to enter into this Agreement and to make the Development Contribution to be applied towards a public purpose in accordance with Council's Planning Agreement Policy.
- F.** Development Consent was granted by the Land and Environment Court on 19 December 2023.
- G.** This Agreement is consistent with the Developers' offer referred to in Recital E.

- H. On 20 May 2022, the Developers entered into Planning Agreement with Council in respect to DA-152/2021 and paid a development contribution in accordance with the relevant consent.
- I. This Agreement deals with the Developers' obligations under DA-152/2021/B and in no way impacts the Planning Agreement entered into by the Developer and Council on 20 May 2022 referred to in recital H and the development contribution paid in relation to that Planning Agreement.

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 that relates to any building work, other than demolition, excavation, piling, shoring and ancillary work for construction purposes including site hoardings and temporary site sheds that relates to works contained in DA-152/2021/B.

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 and as described in Item 4 of the Schedule;

“Development Application” means the development application 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, as may be modified;

“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 referred 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;

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

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

“Public Purpose” for the purpose of this Agreement means that 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 Developers agree to make, and the Council agrees to accept, the Development Contribution to be applied for the Public Purpose.
- 5.2 The Developers 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, being as set out in condition 8A(a)(i) of the Development Consent is subject to increase in accordance with paragraph 7 of the Developers' offer referred to in Recital 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 Developers 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 Developers warrant 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 Developers warrant 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 prior to the issue of any Construction Certificate that relates to any building work, other than demolition, excavation, piling, shoring and ancillary work for construction purposes including site hoardings and temporary site sheds that relates to works contained in DA-152/2021/B, the Developers 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, 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 that relates to any building work, other than demolition, excavation, piling, shoring and ancillary work for construction purposes including site hoardings and temporary site sheds that relates to works contained in DA-152/2021/B.
- 8.5 Upon compliance with clause 8.4 by the Developers, 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, the Developers may request 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 Developers pay all reasonable costs, expenses and fees of the Council relating to such removal.
- 8.8 Should payment of the Development Contribution occur upon the date of this Agreement and prior to issue of a Construction Certificate that relates to any building work, other than demolition, excavation, piling, shoring and ancillary work for construction purposes including site hoardings and temporary site sheds that relates to works contained in DA-152/2021/B, 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 that relates to any building work, other than demolition, excavation, piling, shoring and ancillary work for construction purposes including site hoardings and temporary site sheds that relates to works contained in DA-152/2021/B, the Developers 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 Developers' obligations under this Agreement; and
 - (vii) on the terms otherwise satisfactory to the Council.
- (b) The Developers acknowledge that the Council enters into this Agreement in consideration of the Developers' obligations herein to provide the Bank Guarantee as a security for the performance of all of the Developers' 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 Developers:
- (i) fail to make a payment of any part of the Development Contribution in accordance with the Schedule or any other amount payable under this Agreement by its due date for payment; or
 - (ii) breach any other term or condition of this Agreement,
- and fail 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 Developers' 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 Developers' obligation to pay the relevant amount and will deduct that amount from the amount payable. In those circumstances, the Developers will be required to pay to the Council the 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 Developers have complied with their 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 Developers.

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 service 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 Developers; 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 Developers) or any matter to which this Agreement relates.

12.2 Until such time as the Development Contribution has been paid in full, an Occupation Certificate must not be issued and the Developers 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 Developers acknowledge and agree 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 Developers upon entering into this Agreement, the Developers shall provide Council with the Caveat Form; and
- (e) upon payment of the Development Contribution, the Developers 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 Developers pay all reasonable costs, expenses and fees of the Council relating to such removal and have complied with all their 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:

- (i) delivered or posted to that Party at its address set out below in Item 8 of the Schedule;
- (ii) faxed to that Party at its fax number set out below in Item 8 of the Schedule;
- (iii) 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 Developers 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 Developers. The Developers shall be responsible to pay their 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 Developers acknowledge and agree 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 Developers' 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 *Environmental Planning and Assessment Act*. This Agreement will be dated on the day of execution by all Parties.

DRAFT

SCHEDULE

<u>Item Number</u>	<u>Particulars/Description</u>	
1	Developers	RA No.7 Pty Ltd (ACN 600 896 624) Shalev Assouline Hadarel Assouline and Natalie Assouline
2	Land	Lot 1 Section 10 in DP 786 and known as 154 Ramsgate Avenue, North Bondi
3	Development Application	DA-152/2021/B
4	Development (description)	Demolition of the existing structures and construction of a three storey residential flat building with basement parking and modification to alter internal layout, front and rear extension, open space reconfiguration
5	Development Contribution	\$238,920
6	Public Purpose	Towards the Waverley Affordable Housing Program (25%) and the North Bondi Shops and Bus Terminus Upgrade (75%)
7	Development Contribution Date (Payment date for the Development Contribution)	Prior to the issue of any Occupation Certificate for the Development
8	Developer Address	PO Box 2038 Rose Bay North NSW 2030
	Developer Fax	Not Applicable
	Developer Email	rafi@hsnpropertygroup.com.au
	Council Address	Corner Paul Street and Bondi Road, Bondi Junction NSW 2022
	Council Fax	(02) 9387 1820
	Council Email	info@waverley.nsw.gov.au

**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 RA NO. 7 PTY LTD
(ACN 600 896 624)**

In accordance with section 127 of the
Corporations Act 2001

RAFI ASSOULINE

Sole Director/Secretary

EXECUTED by SHALEV ASSOULINE

SHALEV ASSOULINE

WITNESS

Name of Witness:

EXECUTED by HADAREL ASSOULINE

HADAREL ASSOULINE

WITNESS

Name of Witness:

EXECUTED by NATALIE ASSOULINE

NATALIE ASSOULINE

WITNESS

Name of Witness:

REPORT
CM/7.4/24.03

Subject: Bondi Pavilion - Bar and Catering Services Licence - Exhibition

TRIM No: A21/0525

Manager: Andrew Best, Executive Manager, Property and Facilities

Director: Sharon Cassidy, Director, Assets and Operations

RECOMMENDATION:

That Council:

1. In accordance with section 47A of the *Local Government Act 1993*, publicly notifies and exhibits for 28 days the proposal to grant a licence of up to five years for the provision of bar and catering services on the first floor of the Bondi Pavilion.
2. Officers prepare a report to Council following the exhibition period should any submissions be received.
3. Subject to no submissions being received, approves in principle the granting of the licence.
4. Notes that a tender process will be undertaken to seek a licensee, with a report to be prepared to Council to grant the licence to the preferred tender.
5. Extends the term of the current licence with Glory Days Bondi Pty by four months for the reasons set out in the report.
6. Authorises the General Manager or delegate to complete negotiations and execute all necessary documentation to finalise the variation.

1. Executive Summary

At the November 2022 Council meeting, Council awarded a licence to Glory Days Bondi Pty Ltd for the supply of bar and catering services at Bondi Pavilion on an 18-month trial basis.

The trial period ends in May 2024 and a report will be provided on the outcome of the trial shortly thereafter. The report will also propose the future operating model for the provision of bar and catering services under a new licence.

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

This report seeks Council approval to publicly exhibit the intent to award a licence of up to five years. Should submissions be received through the exhibition period a report will be brought back to Council to deal with the feedback received. Should no submissions be received, officers will undertake a tender

process for a new licence, based on the approved future operating model with a report to be brought back to Council seeking approval to award the licence.

The report also recommends that Council extends the current licence arrangements to ensure that bar and catering services are available to customers of the Pavilion while the tender process for a new licence is completed.

2. Introduction/Background

The first-floor bar at the Pavilion has historically provided bar services to patrons of the Pavilion Theatre and those attending functions and events held in the northern section of the first floor, including the Seagull Room. Council's liquor licence has historically only permitted sale of liquor on the first floor of the Pavilion, with the licence area being extended to facilitate specific events.

At the November 2021 Council meeting, Council endorsed appointing a third-party hospitality specialist to provide bar and catering services on the first floor of the Pavilion building on an 18-month trial basis. The trial period ensured that an experienced operator was in place to deliver bar and catering services at the reopening of the Bondi Pavilion building and has provided an opportunity for officers to assess the pros and cons of the current operating model to inform future decision making in relation to the most effective future operating model going forward.

Following a request for tender process, the licence was awarded to Glory Days Bondi Pty Ltd, which has been operating the first-floor bar venue throughout the 18-month trial period.

3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Finance Operations and Community Services Committee 1 November 2022	FC/7.1/22.11	<p>That Council:</p> <ol style="list-style-type: none"> <li data-bbox="655 1193 1382 1435">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)(i) of the Local Government Act 1993. The report contains commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. <li data-bbox="655 1480 1398 1581">2. Grants a licence to Glory Days Bondi Pty Ltd for the supply of bar and catering services at Bondi Pavilion on an eighteen-month trial basis. <li data-bbox="655 1626 1318 1727">3. Authorises the General Manager or delegate to complete negotiations and execute all necessary documentation to finalise the matter. <li data-bbox="655 1771 1347 1827">4. Officers notify the unsuccessful respondents of the decision. <li data-bbox="655 1872 1414 2076">5. Officers prepare a report to Council following the trial period on the outcomes of the trial and seeking approval to undertake an open public tender process to appoint an operator to provide bar and catering services at the Bondi Pavilion under a longer-term licence.

Council 23 November 2021	CM/7.12/21.11	<p>That Council:</p> <ol style="list-style-type: none"> 1. Endorses a select expression of interest (EOI) process with the three food and beverage operators recently awarded leases at the Bondi Pavilion to provide bar services on the first floor of the Pavilion for a trial period of no more than 18 months, to commence upon the reopening of the building. 2. Officers prepare a report to Council following the EOI process summarising outcomes, which will then be included in the specification of the tender documentation to be put out to open tender at the end of the trial period. 3. Maintains unrestricted public access to the beachfront balcony during the trial and in any subsequent lease or licence issued. 4. Officers prepare a report to Council prior to finalisation of the short-term leasing, detailing the conditions of the intended trial lease.
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5. Discussion

To ensure there is continuity of this service, it is important to undertake the section 47A public exhibition period as soon as practical to notify Council's intent to award a future licence.

Officers are seeking to undertake the public exhibition of the intent to offer a new licence concurrently with the process to evaluate the trial period, approve the operating model and ultimately award a new licence.

The requirements of section 47A do not require that the exhibition notice includes the name the potential licensee but only the intention to award the licence, the term and identify the land over which the licence will apply.

The section 47A process provides approval for licence up to a maximum of five years. The length of the term of the new licence will be determined by Council through the approval process. It is envisaged that the new licence would include a number of option periods to maximum flexibility for both parties.

Should any submissions be received through the public exhibition period, a report will be presented to Council to deal with the submissions.

The current licence with Glory Days Bondi Pty Ltd for the 18-month trial expires on 14 May 2024. To provide surety of tenure for the current operator and to ensure that bar and catering services are available to customers that have secured bookings over the coming months and to allow the tender process to be completed, it is recommended to extend the current licence term by four months.

6. Financial impact statement/Timeframe/Consultation

There is no financial impact to Council to commence a section 47A process apart from minimal costs to cover the exhibition by newspaper advertisements and letter box distributions. This is approximately \$950.

7. Conclusion

The provision of bar and catering services enhances the delivery of various events and cultural programming which take place at the Bondi Pavilion.

It is recommended that Council approve the commencement of the section 47A public exhibition period of its intent to award a new licence for the future provision of these services, for a term of up to five years.

It is also recommended that Council extends the current licence arrangements with Glory Days Bondi Pty Ltd to ensure that bar and catering services are available to customers of the Pavilion while the tender process is completed.

8. Attachments

Nil.

REPORT
CM/7.5/24.03

Subject: Resident Parking Scheme Review

TRIM No: A20/0271

Manager: Nikolaos Zervos, Executive Manager, Infrastructure Services

Director: Sharon Cassidy, Director, Assets and Operations

RECOMMENDATION:

That Council:

1. Establishes a Resident Parking Scheme Review Committee.
2. Notes the draft terms of reference for the Committee, as set out in the report.
3. Appoints the Mayor and Cr [INSERT NAME] and Cr [INSERT NAME] to the Committee up to and including 13 September 2024.
4. Calls for expressions of interest for up to three community representatives to be appointed to the Committee for the duration of the project.

1. Executive Summary

This report seeks Council approval to undertake a comprehensive review of Council's Resident Parking Scheme (RPS). The current scheme was subject to a comprehensive review in 2012, with the support of a RPS Committee, resulting in several improvements. Officers propose forming a committee comprising residents, staff, and Councillors to conduct a thorough review. This report outlines the purpose of the committee and the draft terms of reference to support the delivery of the review.

2. Introduction/Background

The last review in 2012 led to the establishment of a Councillor and staff working group. This group met fortnightly to workshop all relevant aspects of a RPS and develop suitable actions for improvements. The outcomes of the working group were reported to Council for adoption. The working group focused on key areas, addressing issues related to other Councils' schemes, decision-making processes, surveys, scheme areas, permits, enforcement, and additional concerns.

Given over 10 years have passed since Council undertook an RPS review it is timely that a new review process is established. Officers recommend the establishment of an RPS Committee in line with similar projects such as the Floodplain Management Committee that Council approved in 2023. The Committee would require a terms of reference to be developed with suitable Councillor, staff, and resident representation to be present to efficiently and equitably consider various stakeholders.

3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Council 6 September 2019	CM/7.8/19.08	That Council adopts the following approach for the review of resident parking schemes: <ol style="list-style-type: none"> 1. A working party of appropriate Council officers, the Mayor or alternate, the Deputy Mayor or alternate and Cr Kay or alternate be formed to undertake the review. 2. The working party, once formed, meet on a fortnightly basis and report back to Council on the outcome of the review.
Council 19 February 2019	CM/5.4/19.02	That: <ol style="list-style-type: none"> 1. Council undertakes a review of the policy, process and procedures for the creation of resident parking schemes to ensure that the concerns of residents are better balanced with the need to apply a strategic approach to parking scheme management. 2. The two deferred resident parking schemes be used as test models with the new approach established by Council. 3. A future workshop be held to consider options.

4. Discussion

A review was not undertaken following the 2019 resolutions above; rather, an agreed prioritisation of areas for survey and implementation was undertaken. These prioritised areas have now been completed. It is also noted there have been numerous Council resolutions over the last three years raising issues relating to resident parking schemes, which will be considered in this review.

Considerable changes have occurred across the local government area (LGA) in relation to density, parking occupancy, resident sentiment and ongoing and evolving RPS zones and permitting. Further planning control changes and restrictions for the use of an RPS scheme have also occurred over the last 10 years in a haphazard way.

In recent years, Council has received significant numbers of requests for expansion of RPS areas to include adjoining streets, reconsideration of changes and concerns with businesses patronage. This has led to petitions being tabled at Council and many surveys conducted and reports presented to the Traffic Committee. The ongoing expansion of RPS zones creates flow-on effects to neighbouring areas with significant repeat requests for inclusion in RPS zones for more streets.

Given significant changes in community needs, technological advancements, and the evolving nature of transportation, it is imperative to conduct a fresh review. Officers propose establishing a Committee comprising Councillors, staff, and residents to ensure diverse perspectives are considered in shaping the resident parking scheme.

Terms of reference

The draft terms of reference for the committee are as follows.

The purpose of the RPS Committee is to review the resident parking scheme administered and operated by Council to ensure it suits the needs of all community stakeholders efficiently and equitably.

The RPS Committee will:

- Review past, current, and future on-street parking utilisation and demand.
- Define aims and principles for an efficient and equitable resident parking scheme.
- Develop criteria to assess changes to the scheme.
- Explore options for adjustments to improve capacity and meet objectives.
- Assess and rank options based on agreed criteria.
- Recommend the best options in a coordinated plan, phased in over time.

Considerations in the review will include:

- Allowing residents permits for multiple cars.
- Visitor permits.
- Transferrable permits for short-stay accommodation (Airbnb).
- Number, distribution, and types of spaces.
- Equity and fairness of access.
- Time limits and seasonality of parking restrictions.
- Pricing, demand management, and supply side issues.
- Changing nature of patronage and preferences.
- Competition for on-street parking spaces.
- Parking for business owners and employees.
- Options for improving safe parking.
- Alignment with Council's People, Movement and Places Strategy.
- Impact of future development on resident parking.
- Meters, including hours of operation.
- Utilisation of other permits such as beach parking permits and teachers permits.
- Enforcement mechanisms ensuring consistency with principles and objectives.

In formulating recommendations, the group will consider financial impacts and strive for changes to be generally cost-neutral.

Project scope

The project scope will include several key elements including:

- History of the existing scheme.
- Issues with the current scheme.
- Comprehensive consultation with residents, businesses, and other stakeholders.
- Exploration of technologies to enhance the scheme.

Composition of Committee

The composition of the Committee will be as follows:

Table 1. Composition of Committee.

Representative		Number	Method of appointment
Waverley Council	Mayor and Councillors	3	Resolution of Council
	Community representatives	3	EOI and resolution of Council
	Council staff	4	By job position
	Precincts	2	Nominated by Precincts

EOI evaluation process

A thorough evaluation process is proposed to be carried out to assess and determine the most suitable applicants to be members of the RPS Committee. Through the expression of interest (EOI) via Have Your Say (HYS), the community will have the opportunity to apply to be members of the Committee.

The EOI applications will be assessed by a panel according to criteria, including but not limited to; knowledge of RPS schemes, genuine interest for the project holistically, and residence in the Waverley LGA. The evaluation and resultant proposed members will be submitted to Council for approval.

Precincts representation will also be sought through the combined precincts meeting and will be nominated by the precinct committees.

5. Financial impact statement/Time frame/Consultation

Financial impact statement

The review will be undertaken using current operational budget allowances.

Time frame

The Committee is expected to operate for a year.

The estimated milestones are as follows:

- Committee establishment – April/May 2024
- Review of existing RPS – July 2024.
- Draft survey to residents – August 2024.
- Analysis of data/survey – January 2025.
- Draft RPS report with recommendations – February 2025.

Consultation

Extensive community engagement will be a priority, incorporating surveys, website outreach, social media, local media advertising as well as the RPS Committee

6. Conclusion

A new review of Council's Resident Parking Scheme is crucial to address evolving community needs. Establishing a RPS Committee with diverse representation will ensure a holistic and equitable approach to the review process. Council's approval is sought to initiate the process of establishing the committee and finalising the terms of reference. A further report will be presented to Council for the adoption of the community representatives and the final terms of reference.

7. Attachments

Nil.

**REPORT
CM/7.6/24.03**



Subject: Bus Industry Taskforce - 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 Bus Industry Taskforce’s First Report and Second Report.

1. Executive Summary

The purpose of this report is to seek Council approval to submit a response submission to the NSW Bus Industry Taskforce. The submission is in response to two reports that have been produced by the Taskforce. Several key recommendations proposed by the Taskforce have implications for Council. The submission expresses support for several Taskforce recommendations aimed at improving bus services, and expresses concerns for proposals that might adversely impact Council and its residents.

2. Introduction/Background

The Taskforce released its First and Second reports in July 2023 and February 2024. These reports have implications for bus services in the Waverley local government area (LGA).

Council previously submitted a response to Transport for NSW (TfNSW) White Paper on Directions for On-Street Transit in December 2023. That submission was approved by Council with amendments (CM/7.4/23.12). The submission to the Taskforce builds on the themes included in the response to the TfNSW White Paper.

3. Relevant Council Resolutions

Meeting and date	Item No.	Resolution
Council 12 December 2023	CM/7.4/23.12	That Council: <ol style="list-style-type: none"> <li data-bbox="624 1659 1414 1800">1. Approves the submission to Transport for NSW (TfNSW) attached to the report on the Directions for On-Street Transit White Paper, subject to the following amendments, which may be further expanded: <ol style="list-style-type: none"> <li data-bbox="699 1839 1414 1980">(a) Any on-street transit options must support, and not negatively impact, local businesses along the Bondi Beach to Bondi Junction on-street transit routes, which are part of a thriving local economy. <li data-bbox="699 2018 1414 2080">(b) It is imperative that these significant local economies are protected, as they form significant

		<p>local community anchors and help reduce congestion in Bondi Junction.</p> <p>(c) Page 96 of the agenda, fourth paragraph – Amend to read as follows:</p> <p>‘Consideration of and addressing Council’s concerns outlined in this letter would be the basis for any subsequent support of Rapid Bus Routes:</p> <ol style="list-style-type: none"> 1. Bondi Beach to Bondi Junction and City 2. Bondi Junction to Randwick and beyond.’ <p>2. Authorises the General Manager to approve the final updated submission and forward it to TfNSW as a matter of urgency.</p>
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4. Discussion

The Taskforce reports identified numerous issues with existing bus services in Greater Sydney and NSW and outlined steps to rectify these. Several recommendations by the taskforce have implications for the Waverley LGA. Key items include:

1. Possible diversion of funding and resources away from the Eastern Suburbs to other parts of Greater Sydney where current buses services are considered inadequate.
2. Proposed restructure of TfNSW to create a single point of responsibility for bus operations, and to improve monitoring and oversight of bus operators to enhance outcomes, including road user safety.
3. A future roadmap for bus network simplification. In the short to medium term, this includes service upgrade of route 389 between Bondi Junction and Pyrmont.
4. Proposal for TfNSW to delegate wider low-risk responsibilities to Council, improve the process with Local Traffic Committee (LTC) meetings, and provide training and resources to help Councils build capacity for and participate in public transport planning.
5. Proposed amendment of guidance for development contributions and planning agreements to facilitate Council’s ability to collect funds for public transport infrastructure on local streets.

With limited road space based on historical development patterns, Waverley’s transport strategy relies on buses to manage congestion and to support a sustainable transport system. Bus services synergise with active transport to provide options and a more inclusive transport system. Frequent and reliable bus services facilitate lower vehicle ownership, such as that currently experienced in the Waverley LGA. To meet strategic policy objectives, Council must continue to advocate for and work with partners to enhance bus services.

The proposed bus network simplification aims to provide improved bus services. This can reduce travel time and improve service reliability but will likely require that some passengers walk longer distances to reach bus services. This is a particular issue for residents with mobility challenges, and for customers in hilly areas. Bus network simplification should seek to limit any negative effects.

Based on this context, the draft submission response focuses on items 1 to 4 listed above. Item 5 reflects ongoing advocacy from Local Government NSW. Given the current response submission timeline and limited detail provided at this time, the proposed submission does not provide specific comments on this

item. It is highlighted here, given its potential significance. Further work is required to understand the potential opportunity and impact.

The Taskforce's reports are available at <<https://www.transport.nsw.gov.au/industry/independent-reviews/bus-industry-taskforce>>.

5. Financial impact statement/Time frame/Consultation

The submission to the Bus Industry Taskforce is due 31 March 2024.

6. Conclusion

Bus services are essential for the Waverley LGA. Recommendations made by the taskforce have implications both for the planning and operation of bus services, and how bus services will be monitored and regulated in the future. The Submission to the Bus Industry Taskforce is aimed at safeguarding the interests and prosperity of Waverley Council residents.

7. Attachments

1. NSW Bus Industry Taskforce - 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

4 March 2024

John Lee, Bus Industry Taskforce
Chair, Bus Industry Taskforce
bustaskforce@transport.nsw.gov.au

Re: Submission to Bus Industry Taskforce**Preface**

The Waverley Local Government Area (LGA) ranks among the most densely populated areas in Australia, and has some of the nation's highest patronage bus routes. Waverley residents commute by bus at double the rate of the average resident in Greater Sydney. Given Waverley's dense development, mature street network, and limited road space, Waverley's transport strategy relies on buses to manage congestion and enable a sustainable transport system. Waverley has, and continues to promote bus travel. Buses are vital for residents, the workforce, schools, and for the local economy, which relies on visitors being able to travel with ease on the bus network.

Managing vehicle ownership and promoting alternative modes of transport are integral elements of the TfNSW Future Transport Strategy. Population and employment across Metropolitan Sydney are expected to grow steadily in coming years, and the bus network is instrumental for ensuring sustainable growth. About 1 in 5 dwellings in Waverley do not currently own a household vehicle. Adequate bus service is key to maintaining this low vehicle ownership, allowing Waverley to provide an outsized positive contribution toward State net zero goals and sustainable transport mode share goals.

Key Items of Support

Waverley Council recognises the important role of the taskforce in improving bus service quality and passenger safety. We welcome the recommendations outlined in the two reports released in July 2023 and February 2024 respectively. We strongly support the taskforce's recommendations to delegate wider low-risk responsibilities currently requiring traffic committee endorsement, to provide training and resources for local governments to better participate in public transport planning.

We also support the recommendation to restructure TfNSW to create a single point of responsibility for bus planning and operations. This would create closer working relationships between bus operations and local councils, allowing better integration of bus services into short- and long-term land use development and transport infrastructure planning. Additionally, better service planning and driver retention practices would produce more effective and reliable bus services.

**Waverley Council**

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We are encouraged to see that advocacy from the LGNSW regarding improvements to the use of developer contributions has been mentioned. We acknowledge further detail is required, but look forward to providing further input and collaboration and input with relevant stakeholders.

Key Items of Concern

Waverley Council is committed to safeguarding the livelihood and prosperity of its residents, and a quality local bus network is core to our effort. Several propositions in the taskforce report have potential impact on Waverley residents. We have some specific concerns.

Diversion of funding and bus services away from Waverley and the broader eastern suburbs.

A reduction of bus services in Waverley risks a vicious cycle of spiralling patronage drops and service cuts. While we welcome more service in Greater Sydney overall, we must continue to improve service for existing passengers. Given the importance of buses in Waverley, the current level of bus services should be amplified to support current needs and sustain future growth. As well, Waverley Council contains several key regional destinations that residents from across Greater Sydney access through the bus network.

Effects of future bus network simplification on residents' ability to access bus services, and should consider the specific needs of schools.

Simplification of the bus network in Waverley needs to carefully consider local context, and the needs of the community. A simplified, more direct bus network that runs faster, with more frequent, and reliable services are aligned with goals in our People, Movement, and Places plan. Service modification and bus stop relocation will require some passengers to walk longer distances. This is a concern particularly in areas with hilly terrain and for passengers with mobility constraints. Bus stops and footpath capacity to accommodate additional passenger throughput requires further investigation. To fully realise its intended benefits, bus network simplification in Waverley needs to be coupled with investment in bus priority measures.

There is a need to optimise both school and non-school bus operations. We are aware of significant school bus crowding and delays in Waverley and other LGAs. We welcome the taskforce's recommendation for TfNSW to develop a guideline for school bus travel. Bus route modifications in the future will also need to consider the impact on schools and students.

The need to enhance the safety of bus passengers, while also ensuring a safe system for pedestrians, and cyclists.

We recognise the taskforce's emphasis on passenger safety, and the need to expedite driver recruitment to improve bus services. These two goals may conflict and need to be balanced. The safety of people walking, rolling, and cycling, should not be compromised. Waverley has high pedestrian and cyclist activities, and preliminary analysis shows most bus related injuries/fatalities in Waverley are not bus passengers.

Driver retention has been made more difficult following bus privatisation, and bus drivers now have less actual driving experience. To mitigate concerns related to expediting driver recruitment, we support the taskforce's recommendations for TfNSW to better support bus industry workers, and to provide proactive monitoring and oversight.



Waverley Council

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Yours Sincerely,

Sharon Cassidy,

Director, Assets and Operations

NOTICE OF MOTION
CM/8.1/24.03

Subject: RESCISSION MOTION - PD/5.3/24.03 - Waverley Development Control Plan 2022 (Amendment No. 2) - Flood Planning - Adoption

TRIM No: SF21/4935

Submitted by: Councillor Lewis
Councillor Fabiano
Councillor Masselos

MOTION:

That Council rescinds resolution PD/5.3/24.03 – Waverley Development Control Plan 2022 (Amendment No. 2) – Flood Planning – Adoption, passed at the Strategic Planning and Development Committee meeting on 5 March 2024.

Background

This matter was last considered by the Strategic Planning and Development Committee at its meeting on 5 March 2024. On 5 March 2024, Crs Lewis, Fabiano and Masselos submitted a notice of motion to rescind the resolution and foreshadowed the following motion:

FORESHADOWED MOTION

That Council:

1. Adopts the Waverley Development Control Plan (Amendment No. 2) on flood planning attached to the report (Attachments 1 and 2), to take effect when notified on Council's website.
2. Writes to all those who made submissions advising them of Council's decision.
3. Notes that the draft budget 2024-25 will propose a reduction in fees for Council's TUFLOW Flood Model for smaller developments.

BELOW IS A MINUTE EXTRACT FROM THE STRATEGIC PLANNING AND DEVELOPMENT COMMITTEE MEETING ON 5 MARCH 2022:

PD/5.3/24.03 **Waverley Development Control Plan 2022 (Amendment No. 2) - Flood Planning - Adoption (SF21/4935)**

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 19 March 2024.

MOTION

Mover: Cr Lewis
Seconder: Cr Masselos

That Council:

1. Adopts the Waverley Development Control Plan (Amendment No. 2) on flood planning attached to the report (Attachments 1 and 2), to take effect when notified on Council's website.
2. Writes to all those who made submissions advising them of Council's decision.
3. Notes that the draft budget 2024–25 will propose a reduction in fees for Council's TUFLOW Flood Model for smaller developments.

THE MOVER OF THE MOTION ACCEPTED AN AMENDMENT TO CLAUSE 3 SUCH THAT IT NOW READS AS FOLLOWS:

'Notes that the draft budget 2024–25 will propose a reduction in fees for Council's TUFLOW Flood Model for smaller developments, with officers seeking to reduce the fee below \$2,500, which is the figure stated in the report.'

FORESHADOWED MOTION

Mover: Cr Kay
Seconder: Cr Betts

That Council defers this item to the Council meeting on 16 April 2024 meeting to permit:

1. Officers to contact all those who made submissions advising them of the 5 March 2024 Strategic Planning and Development Committee report on the Waverley Development Control Plan (Amendment No. 2) on flood planning and that officers will be available to receive further submissions until Monday, 25 March.
2. Councillors extra time to peruse the complex report and its attachments, discuss concerns with Council officers and receive responses from officers to any further questions.
3. The new Floodplain Management Committee to consider the report and its recommendation and make comment.
4. Officers to consider updates to the February report prior to it being included in the 16 April Council meeting agenda.

THE MOTION WAS PUT AND DECLARED LOST.

Division:

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

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

THE FORESHADOWED MOTION THEN BECAME THE MOTION.

THE MOTION WAS THEN PUT AND DECLARED CARRIED.

DECISION

That Council defers this item to the Council meeting on 16 April 2024 meeting to permit:

1. Officers to contact all those who made submissions advising them of the 5 March 2024 Strategic Planning and Development Committee report on the Waverley Development Control Plan (Amendment No. 2) on flood planning and that officers will be available to receive further submissions until Monday, 25 March.

2. Councillors extra time to peruse the complex report and its attachments, discuss concerns with Council officers and receive responses from officers to any further questions.
3. The new Floodplain Management Committee to consider the report and its recommendation and make comment.
4. Officers to consider updates to the February report prior to it being included in the 16 April Council meeting agenda.

Division:**For the Motion:** Crs Betts, Burrill, Goltsman, Kay and Wy Kanak.**Against the Motion:** Crs Fabiano, Gray, Lewis and Masselos.

Cr Murray was not present for the votes on this item.

A Richards addressed the meeting.

NOTICE OF MOTION

CM/8.2/24.03



Subject: Motion for 2024 ALGA National General Assembly - Environmental Services and Infrastructure

TRIM No: A13/0314

Submitted by: Councillor Fabiano

MOTION:

That Council submits the following motion for consideration by the 2024 Australian Local Government Association's National General Assembly:

This National General Assembly calls on the Australian Government to strengthen Australia's environmental services and infrastructure by engaging in strategic partnerships with local governments. Potential areas of collaboration and new programs that can be implemented include:

1. Environmental services and infrastructure:
 - (a) Biodiversity conservation programs: collaborate on initiatives to protect and enhance biodiversity, including the restoration of natural habitats, conservation of endangered species, and reforestation projects.
 - (b) Waste management and recycling infrastructure: partner with local governments to improve waste management systems, invest in recycling infrastructure, and promote community awareness campaigns to reduce waste generation.
 - (c) Green energy projects: support local governments in implementing green energy projects, such as solar and wind farms, and explore funding mechanisms to incentivise the transition to renewable energy sources.
 - (d) Urban water management and conservation: develop programs to improve urban water management and conservation, including investments in water infrastructure and initiatives to reduce water consumption.
2. Programs to progress local, regional and national objectives:
 - (a) Climate resilience initiatives: work with local governments to assess and enhance climate resilience in communities through infrastructure improvements, early warning systems, and climate adaptation planning.
 - (b) Smart city initiatives: support local governments in adopting smart city technologies to improve efficiency, reduce environmental impact, and enhance the quality of urban living.
 - (c) Community-based conservation projects: establish programs that empower local communities to participate in conservation efforts, including tree planting, wildlife monitoring and sustainable land management projects.

- (d) National clean energy transition strategy: develop a comprehensive strategy in partnership with local governments to transition Australia to a clean energy economy, incorporating regional and local perspectives.
- (e) Circular economy programs: collaborate on initiatives to promote a circular economy, focusing on reducing waste, promoting reuse and recycling, and supporting sustainable production practices.
- (f) Transportation infrastructure for sustainability: Invest in sustainable transportation infrastructure, including public transit systems, cycling infrastructure, and electric vehicle charging stations, to reduce carbon emissions.
- (g) Indigenous land management partnerships: foster partnerships with Indigenous communities for sustainable land management practices, incorporating traditional knowledge and practices into environmental conservation efforts.
- (h) Incentives for sustainable development: provide financial incentives or grants to local governments for sustainable development projects, such as eco-friendly housing, energy-efficient buildings, and environmentally conscious urban planning.
- (i) Innovation hubs for environmental solutions: establish innovation hubs that bring together local governments, businesses, and research institutions to collaborate on developing and implementing innovative environmental solutions.

Background

By implementing these programs and fostering strong partnerships between the Australian Government and local governments, Australia can make significant strides in achieving environmental sustainability at the local, regional, and national levels. Collaboration is key to addressing the complex and interconnected challenges posed by environmental issues.

General Manager's comment

If supported, the motion will be forward to ALGA for inclusion at the conference.

Fletcher Rayner

Director, Planning, Sustainability and Compliance

NOTICE OF MOTION

CM/8.3/24.03



Subject: Motion for 2024 ALGA National General Assembly - Affordable Housing

TRIM No: A13/0314

Submitted by: Councillor Fabiano

MOTION:

That Council submits the following motion for consideration by the 2024 Australian Local Government Association's National General Assembly:

This National General Assembly calls on the Australian Government to address the need for more affordable housing and to tackle homelessness by developing a range of programs and policies in collaboration with local governments. Potential affordable housing programs and homelessness prevention initiatives include:

1. Increase funding for affordable housing:
 - (a) Allocate additional funding to support the construction and maintenance of affordable housing projects.
 - (b) Provide grants or low-interest loans to developers focusing on affordable housing.
2. Land use planning and zoning policies:
 - (a) Work with local governments to review and amend zoning regulations to facilitate the development of affordable housing.
 - (b) Streamline approval processes for affordable housing projects.
3. Incentives for private sector involvement:
 - (a) Introduce tax incentives for developers who invest in affordable housing projects.
 - (b) Explore public-private partnerships to encourage private sector involvement in affordable housing initiatives.
4. Community land trusts: Support the establishment of community land trusts that can acquire and manage land for affordable housing purposes.
5. Rent assistance programs: expand rental assistance programs to help low-income households afford private rental accommodation.
6. Wrap-around support services: invest in support services such as mental health counselling, addiction treatment, and job training to address the root causes of homelessness.

7. Emergency shelter expansion: increase funding for emergency shelters and temporary housing options to provide immediate relief for those experiencing homelessness.
8. Housing first approach: adopt a 'housing first' approach, prioritising providing stable housing as the first step in addressing homelessness, and then offering support services as needed.
9. Collaborative data collection: work with local councils to establish comprehensive data collection systems to understand the causes and demographics of homelessness better. This can inform targeted interventions.
10. Community engagement and education: develop public awareness campaigns to reduce stigma associated with homelessness and encourage community support for homeless individuals.
11. Employment programs: implement programs that focus on skill development and job placement for individuals experiencing homelessness.
12. Integration of housing and health services: foster collaboration between housing and health services to address the unique needs of homeless individuals, especially those with mental health or substance abuse issues.
13. Rental assistance for vulnerable populations: provide targeted rental assistance for vulnerable populations, such as youth aging out of foster care or individuals leaving correctional facilities.
14. Long-term housing solutions: develop long-term housing solutions, including transitional housing and permanent supportive housing for those with complex needs.
15. Policy coordination: establish a coordinated approach between federal, state, and local governments to ensure policies and programs are aligned and effective in addressing homelessness.

Background

Collaboration between the Australian Government and local councils, along with active engagement with community organisations and the private sector, is crucial to the success of these initiatives. This multi-faceted approach can contribute to both the immediate alleviation of homelessness and the sustained availability of affordable housing options.

General Manager's comment

If supported, the motion will be forward to ALGA for inclusion at the conference.

Ben Thompson

Director, Community, Culture and Customer Experience

NOTICE OF MOTION

CM/8.4/24.03



Subject: Motion for 2024 ALGA National General Assembly - Closing the Gap

TRIM No: A13/0314

Submitted by: Councillor Fabiano

MOTION:

That Council submits the following motion for consideration by the 2024 Australian Local Government Association's National General Assembly:

This National General Assembly calls on the Australian Government to advance reconciliation and close the gap between Aboriginal and Torres Strait Islander peoples and the rest of the Australian population through a comprehensive and collaborative approach from both the Australian Government and local governments. Potential trust-building initiatives include:

1. Truth and Reconciliation Commission: consider the establishment of a Truth and Reconciliation Commission to address historical injustices and promote healing.
2. Cultural exchange programs: facilitate cultural exchange programs between Indigenous communities and local governments, fostering mutual understanding and respect.
3. Government accountability measures: implement transparent mechanisms to ensure government accountability in delivering on commitments to Indigenous communities.
4. Cultural competency evaluation: regularly assess and enhance cultural competency within government agencies, seeking feedback from Indigenous communities on their experiences.
5. Ongoing dialogue: foster ongoing dialogue between government representatives and Indigenous communities, creating spaces for open communication and collaboration.
6. Traditional decision-making processes: recognise and respect traditional decision-making processes within Indigenous communities, incorporating them into governance structures where appropriate.

Background

A comprehensive and sustained commitment from both levels of government, as well as active engagement with Indigenous communities, is essential to building trust and achieving meaningful reconciliation. Regularly reviewing and adapting these initiatives based on feedback and outcomes is crucial to their success.

General Manager's comment

If supported, the motion will be forward to ALGA for inclusion at the conference.

Ben Thompson

Director, Community, Culture and Customer Experience

NOTICE OF MOTION
CM/8.5/24.03

Subject: Footpath Seating
TRIM No: A08/0935-02
Submitted by: Councillor Masselos

MOTION:

That Council:

1. Amends the footpath dining permit system to only prescribe the area available for seating.
2. Officers notify Councillors once the footpath dining permit system process has been amended.

Background

Feedback has been received from operators of cafes and restaurants that Council's approach to approving outdoor dining permits may be inconsistent with neighbouring Councils. The concern relates to permits (notice of determination of footpath seating) prescribing the number of approved tables and chairs rather than relying on the approved area only.

From a compliance perspective, operators are reporting that penalty infringement notices based on an exceedance of chairs or tables located within the approved area is considered unreasonable and inconsistent with their experience in other council areas.

General Manager's comment

If resolved by Council, officers can implement the change and advise accordingly.

Fletcher Rayner
Director, Planning, Sustainability and Compliance

URGENT BUSINESS
CM/10/24.03**WAVERLEY**
COUNCIL

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/11/24.03

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

WAVERLEY
COUNCIL

There are no confidential reports for consideration.

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.