

AGENDA



COUNCIL MEETING

TUESDAY 23 JUNE 2020

6.30pm

In the spirit of open, accessible and transparent government, this meeting of the Inner West Council is being streamed live on Council's website. Any part of this meeting that is held in closed session will not be recorded.

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Reports appearing in this section of the Business Paper are confidential in their entirety or contain confidential information in attachments.

The confidential information has been circulated separately.

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Minutes of Extraordinary Council Meeting held remotely on 3 June 2020

Meeting commenced at 6.30pm

Present:

Darcy Byrne	Mayor
Vittoria Raciti	Deputy Mayor
Marghanita Da Cruz	Councillor
Mark Drury	Councillor
Lucille McKenna OAM	Councillor
Colin Hesse	Councillor
Tom Kiat	Councillor
Pauline Lockie	Councillor
Victor Macri	Councillor
Julie Passas	Councillor
Rochelle Porteous	Councillor
John Stamolis	Councillor
Louise Steer	Councillor (6.35pm)
Anna York	Councillor
Michael Deegan	Chief Executive Officer
Marcia Doheny	General Counsel
Ian Naylor	Manager Governance
Katherine Paixao	Governance Coordinator

APOLOGIES: Nil

DISCLOSURES OF INTERESTS:

Clr Drury declared a significant, non-pecuniary interest in Item 1 Report from General Counsel as the subject matter of the report relates to his position in State Government and he will leave the meeting.

Motion: (Byrne/McKenna OAM)

THAT Council note the disclosure of interest.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis and York

Against Motion: Nil

Councillor Drury retired from the Meeting at 6:33 pm.

Councillor Steer entered the Meeting at 6:35 pm.

REPORTS WITH CONFIDENTIAL INFORMATION

C0620(1) Item 1 Report from General Counsel

Motion: (Hesse/Kiat)

THAT Council:

- 1. Receive and note the report;**
- 2. Be updated immediately as information comes to hand;**
- 3. Receive a Communication Plan by the CEO and General Counsel at the Ordinary Council meeting on 9 June 2020;**
- 4. Note the need to begin quarterly legal briefings and one be convened soon; and**
- 5. Seek advice from the Office of Local Government on the matter contained in the report.**

Motion Carried

For Motion: Crs Byrne, Da Cruz, Hesse, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

Absent: Cr Drury

Meeting closed at 8.45pm.

Minutes of Ordinary Council Meeting held remotely and livestreamed on Council's website on 9 June 2020

Meeting commenced at 6.31pm

Present:

Darcy Byrne	Mayor
Vittoria Raciti	Deputy Mayor
Marghanita Da Cruz	Councillor
Mark Drury	Councillor
Lucille McKenna OAM	Councillor
Colin Hesse	Councillor
Sam Iskandar	Councillor (6.43pm)
Tom Kiat	Councillor
Pauline Lockie	Councillor
Victor Macri	Councillor
Julie Passas	Councillor
Rochelle Porteous	Councillor
John Stamolis	Councillor
Louise Steer	Councillor
Anna York	Councillor
Michael Deegan	Chief Executive Officer
Elizabeth Richardson	Chief Operating Officer, Director Development and Recreation
Cathy Edwards-Davis	Director Infrastructure
Erla Ronan	Director City Living
Melodie Whiting	Director Corporate
Daryl Jackson	Chief Financial Officer
Ian Naylor	Manager Governance
Katherine Paixao	Governance Coordinator

APOLOGIES: Nil

DISCLOSURES OF INTERESTS:

Clr Hesse declared a non-significant, non-pecuniary interest in Item 5 as a recommended recipient of a grant, Ms Huna Amweero, is the President of Radio Skid Row, the community radio station he volunteers with.

Clr Drury declared a significant, non-pecuniary interest in Verbal Report from Chief Executive Officer as the subject matter of the report relates to his position in State Government and he will leave the meeting.

Motion: (Byrne/Lockie)

THAT Council note the disclosure of interests.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

CONFIRMATION OF MINUTES

Motion: (Lockie/Drury)

THAT the Minutes of the Council Meeting held on Tuesday, 26 May 2020 be confirmed as a correct record, subject to the follow amendment:

- Adding the following motion for Item 16 Verbal report on Chief Executive Officer (CEO) Performance.

Motion: (Porteous/Drury)

THAT the performance review consideration be deferred to the next Ordinary Meeting.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

Councillor Iskandar entered the Meeting at 6:43 pm.

C0620(2) Item 10 Mayoral Minute: Council Staff's Bushfire Response

Motion: (Byrne)

THAT Council:

1. Expresses its thanks and gratitude to Council officers Cameron Gray, Conor Wilson, Asher Richardson and Ellen Shannon who temporarily joined Eurobodalla Shire Council's team of development assessors to help process existing applications and fast track new ones from bushfire-affected residents; and
2. Receive a report on establishing a "Sister City" assistance program with Eurobodalla Shire Council, which is to be tabled at a Council meeting.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

C0620(2) Item 11 Mayoral Minute: Leichhardt Oval and Henson Park upgrades

Motion: (Byrne)

THAT:

1. Notes the correspondence the Mayor received from Peter V'landys, Chair of the Australian Rugby League Commission (ARLC), in response to his letter dated 2 March;
2. Notes the Schedule of Works for Leichhardt Oval;
3. Consults with Wests Tigers, Sydney FC and relevant sporting organisations on the adopted Schedule of Works and seeks their priorities for the upgrade of Leichhardt Oval; and

- 4. Submits the Schedule of Works for Leichhardt Oval and the sporting codes priorities to the ARLC and seeks its advocacy for State and Federal funding for Leichhardt Oval.**

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

C0620(2) Item 12 Mayoral Minute: Stronger Community Grants shortfall

Motion: (Byrne)

THAT Council:

- 1. Notes that Inner West Council received no funding in the second round of Stronger Communities Grant funding, which was designated to help Councils that were forcibly amalgamated by the NSW Government in 2016; and**
- 2. Writes to the Premier for New South Wales and the Minister for Local Government requesting that Inner West Council receives its fair share of the Stronger Communities Grant funding.**

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

C0620(2) Item 1 Public Exhibition of Draft Revised Delivery Program 18-22 and combined Draft Operational Plan 2020/21 and Budget 20/21, Draft Fees and Charges 2020/21, and Draft Updated Long Term Financial Plan 2020-30

Motion: (Drury/Byrne)

THAT Council:

- 1. Place the Revised Delivery Program 2018 - 22 and combined Draft Operational Plan 2020/21 and Budget 2020/21, Draft Fees and Charges 2020/21, Draft Updated Long - Term Financial Plan 2020 - 30 for public exhibition for a minimum of 28 days;**
- 2. Continue to develop a consistent Inner West Council rating structure by July 2021, as required by the NSW Government;**
- 3. Determines the 2020/21 fees and charges to be exhibited not include a fee for booking Tennis Court Hire and that the fees relating to Synthetic Turf fields be renamed for Arlington Oval;**
- 4. Note that the \$10 million savings target of the 2019/20 Budget has been met and exceeded by \$8 million and that Council include reference to the \$18 million in savings that have been achieved this financial year in the draft 2020/21 Budget that goes out on exhibition; and**
- 5. Receive advice with the post-exhibition report regarding:**
 - a) Maintaining a 0% interest rate on overdue rates for the entire financial year, in the context of a possible economic recession and significant economic**

hardship within the Inner West;

- b) The policy governing bookings of Skate Parks and how the risk of reduced community access will be managed with potential formalisation of such bookings through introduction of a fee;**
- c) Key Performance Indicators which were adopted with the previous budget and operational plan, noting that Council resolved on 14 May 2019 that: “All Key Performance Indicators in the Operational Plan are comprehensively reviewed for the 2020/2021 Operational Plan and Budget, and that this forms part of the monthly meetings proposed by the CEO”; and**
- d) Potential ‘Initiatives’ to correspond with the following ‘Strategies’:**
 - i. 1.1.4 - ‘Develop planning controls to protect and support a sustainable environment’; and**
 - ii. 2.4.1 - ‘Ensure the expansion of social, community and affordable housing, distributed across the Inner West, facilitated through proactive policies’.**

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Porteous, Raciti, Steer and York

Against Motion: Crs Passas and Stamolis

Foreshadowed Motion: (Stamolis/Passas)

THAT Council:

- 1. Endorse the drafts of the Revised Delivery Program 2018-22 and combined Draft Operational Plan 2020/21 and Budget 2020/21, Draft Fees and Charges 2020/21, Draft Updated Long-Term Financial Plan 2020-30 for public exhibition for a minimum of 28 days; and**
- 2. Continue to develop a consistent Inner West Council rating structure by July 2021, as required by the NSW Government.**

This Foreshadowed Motion lapsed.

Councillor Passas left the Meeting at 7:45 pm.

Councillor Passas returned to the Meeting at 7:55 pm.

C0620(2) Item 2 Post Exhibition Report - Draft Inner West Local Environmental Plan 2020 and Associated DCP Amendments

Motion: (Porteous/Passas)

THAT Council:

- 1. Defer this item to the 23 June 2020 Council meeting to enable further consultation with local communities concerned about elements of the LEP and DCP 2020, particularly in relation to the Moore St and Summer Hill Flour Mill rezoning;**
- 2. Contact the State Government for an extension; and**
- 3. Puts a Q&A about this Item on the website as soon as possible.**

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, Passas, Porteous, Raciti, Stamolis and Steer

Against Motion: Crs McKenna OAM and York

Foreshadowed Motion: (McKenna OAM/Byrne)

THAT Council:

1. Endorse the planning proposal to facilitate the draft Inner West Local Environmental Plan 2020 (LEP 2020) as exhibited with minor amendments outlined in Attachment 1 and as amended to correct administrative errors identified when mapping Schedule 5 Environmental Heritage;
2. Noting that Council does not have delegation to make the LEP, submit the planning proposal as amended by Part 1 of this resolution to the Department of Planning Industry and Environment for making;
3. Adopt the exhibited amendments in relation to the removal of the notification chapters from the following Development Control Plans (DCPs):
 - a) Marrickville DCP 2011;
 - b) Leichhardt DCP 2013 as well as the deletion of Clause C25(c) (car share); and
 - c) Comprehensive Inner West DCP 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill (Ashfield DCP).
4. Adopt the rest of the exhibited amendments to the DCPs, with the exception of changes that relate to the Moore Street Industrial Precinct in Leichhardt DCP 2013, and align the date the amended DCPs come into force with the finalisation of the Inner West Local Environmental Plan 2020 by the Department of Planning Industry and Environment.

This Foreshadowed motion lapsed.

C0620(2) Item 3 Expression of Interest for Inner West Recovery Taskforce

Motion: (Lockie/Steer)

THAT:

1. The following applicants be appointed to the economic recovery taskforce:
 - Greg Khoury
 - Erica Berchtold
 - Mark Chapman
 - Chrissy Flanagan
 - Morris Hannah
 - Percy Allen
 - Kerrie Glasscock
 - Monica Vardabasso
2. In addition to the Mayor, council nominate Councillor Steer as delegate to the Taskforce;
3. The proposed terms of reference be adopted in principle and tabled for consideration at the first meeting of the taskforce;

4. Council notify successful and unsuccessful applicants of the outcome of the process; and
5. The first meeting of the taskforce be held no later than July 1 2020.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

C0620(2) Item 4 Supporting Inner West NGOS and Charities

Motion: (Byrne/Lockie)

THAT Council approve a COVID impact funding contribution of \$25,000 each to the following major partner organisations: Addison Road Community Centre, Asylum Seekers Centre, Exodus Foundation, Headspace Ashfield, Inner West Neighbour Aid, Leichhardt Women's Health Centre, Marrickville Youth Resource Centre, Newtown Neighbourhood Centre, Rozelle Neighbourhood Centre, and St Vincent de Paul Society Inner West.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Cr Passas

Amendment (Da Cruz/Passas)

THAT Sydney City Lifestyle and Mission Centre in Annandale in the NFP and Charities receiving a COVID-19 grant from the Inner West Council.

Motion Lost

For Motion: Crs Da Cruz and Stamolis

Against Motion: Crs Byrne, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Steer and York

C0620(2) Item 5 Inner West Creative and Cultural Resilience Grants

Motion: (Lockie/Steer)

THAT Council endorse the recommendations for \$300,000 of Inner West Creative and Cultural Resilience Grants for funding and note an additional \$55,084 has been allocated to the grant funding from unexpended City Living events and programs budgets enabling a total of 44 projects to be funded.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

ADJOURNMENT

8.47pm - The Mayor, Clr Byrne adjourned the meeting for a short recess.

8.52pm– The Mayor, Clr Byrne resumed the meeting.

C0620(2) Item 6 Public Domain Parking Policy

Motion: (Drury/Stamolis)

THAT:

1. The Public Domain Parking Policy (Attachment 1) be adopted in the former Ashfield and Marrickville Council areas and become effective from 1 July 2020;
2. The Leichhardt Council – Resident Parking Scheme 2007 Policy be retained;
3. Council rescind existing parking policies including: Ashfield Council - Resident Parking Permit Scheme, 2014; Leichhardt Council - Angle Parking Policy, 2010; Marrickville Council - Angle Parking in Residential Streets Policy, 1999; Marrickville Council - various policies & protocols on Resident Parking Scheme; and Ashfield Council – Supporting Car Share Parking Policy 2015; Leichhardt Council – Car Share Policy 2008; Marrickville Council – Car Share Policy 2014;
4. The proposed fees and charges for the former Ashfield and Marrickville Council area be supported in principle and be considered through the annual budget review process for 2021/2022; and
5. Council amend 7.12.2 last paragraph with the addition of a final sentence to read:
 - Residents may apply to maintain hard copy parking permits.
6. The pensioner permits in the former Leichhardt Council area be retained in their current form and unchanged.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, McKenna OAM, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Crs Macri and Passas

Foreshadowed Motion: (Passas)

THAT Council defer this item until physical Council meetings can take place.

This Foreshadowed Motion lapsed.

C0620(2) Item 7 Funds available for Donations by the Mayor

Motion: (Drury/McKenna OAM)

THAT the report be received and noted.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Cr Passas

C0620(2) Item 8 Notice of Motion: Summary of NGO acquittal

The Mayor ruled this item was dealt with as part of Item 4.

Urgency Motion: King Street Gateway Project

Councillor Lockie requested that an Urgency Motion be considered regarding King Street Gateway Project.

Motion: (Lockie/Byrne)

THAT the matter be considered urgently.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

The Mayor ruled the matter is urgent.

Motion: (Lockie/Byrne)

THAT Council:

1. Notes with concern the lack of progress that has been made on the King Street Gateway Project, which Transport for NSW is required to build in order to protect King Street Newtown from the traffic impacts of the WestConnex M8 (formerly the New M5);
2. Writes to the Minister for Transport to:
 - a) Call on the Minister to ensure that the King Street Gateway Project is in place before the WestConnex M8 opens to traffic, or at the very least, that temporary measures in place to protect King Street prior to the opening;
 - b) Emphasise the Project's strong alignment with his public commitment to invest in active transport and safer streets, and his government's obligation to deliver the Project under the New M5 Conditions of Approval; and
 - c) Request an urgent meeting to ensure this matter can be resolved to Council's satisfaction before the M8 opens.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

Urgency Motion - Rescission C0420(2) Item 12 Proposed Licencing at Tempe Reserve 28 April 2020

Councillors Byrne, Drury, Iskandar, McKenna OAM and York requested that an Urgency Motion be considered a motion to rescind C0420(2) Item 12 Proposed Licencing at Tempe Reserve.

Motion: (Byrne/York)

THAT the matter be considered urgently.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, McKenna OAM, Porteous, Stamolis, Steer and York

Against Motion: Crs Macri, Passas and Raciti

The Mayor declared this matter urgent.

Motion: (Byrne/York)

THAT C0420(2) Item 12 Proposed Licencing at Tempe Reserve adopted at the 28 April 2020 ordinary Council meeting be rescinded:

THAT Council:

1. Approves signing of a non-binding Heads of Agreement with Newington College generally in the form provided at Attachment 1;
2. In its capacity as land manager of Tempe Recreation Reserve, approves the subsequent entering into of an Agreement for Licence on the terms outlined in the Heads of Agreement once all legislative requirements have been completed;
3. Endorses a Licence period of up to 30 years, subject to approval by the Minister for Local Government; and
4. Nominate whether it wishes to pursue further partnering opportunities at Tempe Recreation Reserve, through an Expression of Interest process.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, McKenna OAM, Porteous, Steer and York

Against Motion: Crs Macri, Passas, Raciti and Stamolis

Motion: (Byrne/York)

THAT Council:

1. Open an expression of interest process for community sporting clubs and local public and low fee non-government schools use of the sporting fields including the proposed new 2 synthetics fields identified in the Tempe Reserve Plan of Management. This should include extended hours of use up until 10:00pm on weekday evenings;
2. Write to Newington seeking further public benefit, such as including access for local sporting clubs to Newington's sporting facilities, as a component of any co-investment at Tempe Reserve;
3. Convene a meeting of local sporting clubs and Tempe High School to discuss the Tempe Reserve Master Plan and the EOI for use of the proposed synthetic surfaces; and
4. The community consultation process for the Tempe Reserve Plan of Management be reopened for three weeks from the date of letterboxing a comprehensive summary of the draft master plan to residents of Tempe, Sydenham and St Peters.

Motion Carried

For Motion: Crs Byrne, Drury, Iskandar, Lockie, Macri, McKenna OAM, Passas, Raciti, Stamolis and York

Against Motion: Crs Da Cruz, Hesse, Kiat, Porteous and Steer

Foreshadowed Motion (Hesse/Kiat)

THAT:

1. Council permanently cease contract negotiations with Newington College, and not enter into any contract agreement with Newington College or any private school that would allow the exclusive use of Inner West Council playing fields, parks or facilities beyond that allowed a seasonal user under Inner West Council's Sporting Grounds Allocations Policy;
2. The community consultation process for the Tempe Reserve Plan of Management be reopened for three weeks from the date of letterboxing a comprehensive summary of the draft master plan to residents of Tempe, Sydenham and St Peters.

This Foreshadowed Motion lapsed.

Confidential Session

Motion: (Byrne/Lockie)

That Council enter into Confidential Session.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

ADJOURNMENT

10.44pm - The Mayor, Clr Byrne adjourned the meeting for a short recess.

10.46pm– The Mayor, Clr Byrne resumed the meeting.

Clr Drury left the meeting at 10.46pm as he declared a significant, non-pecuniary interest in Item 13 Verbal Report from Chief Executive Officer as the subject matter of the report relates to his position in State Government

C0620(2) Item 13 Verbal Report from Chief Executive Officer

Motion: (Byrne/Lockie)

THAT Council defer this matter to the next Ordinary Council Meeting.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Cr Passas

Councillor Drury returned to the Meeting at 11:05 pm.

C0620(2) Item 14 Verbal report on Chief Executive Officer (CEO) Performance

Motion: (Byrne/Hesse)

THAT Council notes that the CEO's 6 monthly verbal report to full council has been completed. The Performance Review Committee to convene a meeting as soon as possible in June to progress the performance review process for the CEO as per the published CEO Performance Review and Plan.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

Meeting closed at 11.12pm.

Item No: C0620(3) Item 1

Subject: DEFERRED POST EXHIBITION REPORT – DRAFT INNER WEST LOCAL ENVIRONMENTAL PLAN 2020 AND ASSOCIATED DCP AMENDMENTS

Prepared By: Terri Southwell - Team Leader - Urban Strategy

Authorised By: Harjeet Atwal - Senior Manager Planning

RECOMMENDATION

THAT Council:

1. **Endorse the planning proposal to facilitate the draft Inner West Local Environmental Plan 2020 (LEP 2020) as exhibited with minor amendments outlined in Attachment 1 and as amended to correct administrative errors identified when mapping Schedule 5 Environmental Heritage; and**
2. **Notes that Council does not have delegation to make the LEP, submit the planning proposal as amended by Part 1 of this resolution to the Department of Planning Industry and Environment for making;**
3. **Adopt the exhibited amendments in relation to the removal of the notification chapters from the following Development Control Plans (DCPs):**
 - a) **Marrickville DCP 2011;**
 - b) **Leichhardt DCP 2013 as well as the deletion of Clause C25(c) (car share); and**
 - c) **Comprehensive Inner West DCP 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill (Ashfield DCP).**
4. **Adopt the rest of the exhibited amendments to the DCPs, with the exception of changes that relate to the Moore Street Industrial Precinct in Leichhardt DCP 2013, and align the date the amended DCPs come into force with the finalisation of the Inner West Local Environmental Plan 2020 by the Department of Planning Industry and Environment.**

DISCUSSION

At its meeting of 9 June 2020 Council deferred consideration of this matter, to enable further consultation with local communities concerned about elements of the draft Inner West LEP 2020, to allow a better understanding of the changes proposed in the Draft LEP to the Moore Street Industrial Precinct and the Summer Hill Flour Mill Complex; and to request an extension to the timeframe for submission of the LEP to DPIE. At the time of writing no response has been received from DPIE in relation to the requested extension of time.

Summer Hill Flour Mill

Strata/stratum plans were made available to Council staff to enable further investigation to identify which sites contain the heritage buildings on the Summer Hill Flour Mill site. As a result, the Draft Inner West LEP 2020 (**Attachment 1**) now only identifies 2 lots at 16-18 Flour Mill Way, Summer Hill as having heritage significance. The reference to interiors is retained.

Moore Street, Leichhardt Industrial Precinct

As indicated in the Council report considered at the 9 June Council meeting (**Attachment 2**) The draft LEP 2020 has been amended to retain the zoning of the Moore Street industrial precinct as IN2 Light Industrial and to permit freight transport facilities, general industries, resource recovery facilities, sewage treatment plants, timber yards and vehicle body repair workshops as additional permitted uses on this land; thereby replicating the existing permitted

uses on this land as closely as possible under the existing Leichhardt LEP 2013. No further amendments are proposed.

There are no changes to the DCPs proposed beyond those recommended at the meeting of 9 June 2020. The DCPs can be found using the following link (due to the size of the attachment, it can be accessed using the following link <http://www.innerwest.nsw.gov.au/develop/planning-controls/development-control-plans-dcp>)

Additional Consultation

An email was sent to all submitters on 11 June advising them of the Council resolution from 9 June for the deferral of the LEP and the requirement for additional engagement opportunities. In addition, posts were made on Council's facebook, Twitter and LinkedIn.

Council's *Your Say* project page was updated to include video presentations of the changes that have occurred since the planning proposal for the draft LEP and the DCPs were exhibited in relation to the Moore Street Industrial Precinct and the Summer Hill Flour Mill site.

A Question and Answer (Q&A) was set up on the *Your Say* project page, and staff answered questions as they arose. The Q&A, email and phone line were available from Thursday 11 June through the weekend to 5pm Sunday 14 June. 37 public questions were asked on the Q&A. Of these over 80% came from only 3 households, with almost 50% from one person. There were 4 phone calls.

Questions raised during this period almost entirely related to the Moore St precinct: the proposed change to the method of permitting of business and office premises for creative uses; the delay in greening Whites Lane, the carrying forward from Leichhardt LEP of freight transport facilities and timber yards as additional permitted uses; the relationship with the Draft Employment and Retail Lands Strategy and the amenity, environmental, traffic and parking impacts of a perceived intensification resulting from carrying forward uses permitted in the Leichhardt LEP. There were no questions on the Summer Hill Flour Mills site.

Council Interest

Attachment 3 of the report outlines the nature of Council's interest in the LEP 2020. Council owns 4 parcels of land within the area of land likely to be affected by rezoning under LEP 2020. The land is utilised for public purposes and no change in use of this land is anticipated as a result of LEP 2020.

FINANCIAL IMPLICATIONS

Milestone 5 of the accelerated LEP funding agreement with the State Government requires submission of the approved planning proposal to be sent to Department of Planning Industry and Environment by 30 June 2020.

Attachment 1 has been published separately in the Attachments Document on Council's Website <https://www.innerwest.nsw.gov.au/about/the-council/council-meetings/current-council-meetings>

ATTACHMENTS

1. ➡ Draft Inner West Local Environmental Plan 2020 - Written Instrument with Summary of changes since exhibition – **Published separately**
2. ↓ Post Exhibition Report to 9 June Council Meeting - Draft Inner West Local Environmental Plan 2020 and associated DCP amendments
3. ↓ Statement of Council interest for Council Owned land - 9 June 2020
4. ↓ Officer Comments in relation to Submissions - 9 June 2020

Council Meeting
9 June 2020

Item No: C0620(2) Item 2
Subject: POST EXHIBITION REPORT - DRAFT INNER WEST LOCAL ENVIRONMENTAL PLAN 2020 AND ASSOCIATED DCP AMENDMENTS
Prepared By: Denise Benger - Senior Strategic Planner
Authorised By: Elizabeth Richardson - Chief Operating Officer, Director Development & Recreation

RECOMMENDATION

THAT Council:

1. Endorse the draft Inner West Local Environmental Plan 2020 (LEP 2020) as exhibited with minor amendments outlined in Attachment 1 and as amended to correct administrative errors identified when mapping Schedule 5 Environmental Heritage; and
2. Adopt the exhibited amendments in relation to the removal of the notification chapters from the following Development Control Plans (DCPs):
 - a. Marrickville DCP 2011;
 - b. Leichhardt DCP 2013 as well as the deletion of Clause C25(c) (car share); and
 - c. Comprehensive Inner West DCP 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill (Ashfield DCP).
3. Adopt the rest of the exhibited amendments to the DCPs, with the exception of changes that relate to the Moore Street Industrial Precinct in Leichhardt DCP 2013, and align the date the amended DCPs come into force with the finalisation of the Inner West Local Environmental Plan 2020 by the Department of Planning Industry and Environment.

DISCUSSION

The draft Inner West Local Environmental Plan 2020 (LEP 2020) and associated Development Control Plan (DCP) amendments were exhibited from 16 March to 24 April 2020. A total of 178 submissions were received from individuals, organisations and government agencies. Council officers comments in relation to the submissions received is shown as Attachment 3. A summary of the submissions received during the exhibition period are provided in the Engagement Outcomes Report available here:

<https://yoursay.innerwest.nsw.gov.au/harmonising-planning-across-the-inner-west>

As a result of the feedback received during the exhibition period, it is recommended that amendments are made to the draft LEP 2020 including:

- Moore Street, Leichhardt Industrial Precinct, expanded upon below;
- Corrections to property details of Schedule 5 Environmental Heritage;
- Minor changes to the wording of the local provision and land use tables restricting business and office uses in the IN2 Light Industrial and B7 Business Park zone; and
- Other matters raised in the submissions were out of scope of this project and will be considered in Phase 2 of the Inner West LEP/DCP process such as site specific rezonings.

Moore Street, Leichhardt Industrial Precinct

Approximately 57% of all submissions related to the proposed rezoning of the Moore Street Industrial Precinct from IN2 Light Industry under Leichhardt LEP 2013 to IN1 General under LEP 2020.

A key principle of the Phase 1 of the LEP 2020 project is to provide a consistent approach to the application of zones across the LGA. Given that 'general industries' were already permissible under the current planning controls, it was considered that the best fit zone for this precinct would be IN1 General Industrial zone under LEP 2020. This was consistent with the exhibited draft Employment and Retail Lands Strategy (EARLS).

It is noted that EARLS is yet to be endorsed by Council and therefore it is recommended that the zoning and land uses in the precinct are retained as near as possible to the existing situation. The draft LEP 2020 at Attachment 1 has been amended to retain the zoning of the Moore Street industrial precinct as IN2 Light Industrial and to permit freight transport facilities, general industries, resource recovery facilities, sewage treatment plants, timber yards and vehicle body repair workshops as additional permitted uses on this land; thereby replicating the existing permitted uses on this land as closely as possible under the existing Leichhardt LEP 2013.

DCP Amendments

The DCP amendments (due to the size of the attachment, it can be accessed using the following link <http://www.innerwest.nsw.gov.au/develop/planning-controls/development-control-plans-dcp>) are to align the current DCPs with the consolidated Inner West LEP 2020. The changes mostly relate to document references, but also propose to delete notification requirements as these have been replaced by Council's new Community Engagement Framework and delete Clause C25(c) of Leichhardt DCP 2013 in relation to car sharing. It is proposed to retain the amendments as exhibited.

Council Interest

Attachment 2 of the report outlines the nature of Council's interest in the LEP 2020. Council owns 4 parcels of land within the area of land likely to be affected by rezoning under LEP 2020. The land is utilised for public purposes and no change in use of this land is anticipated as a result of LEP 2020.

FINANCIAL IMPLICATIONS

Milestone 5 of the accelerated LEP funding agreement with the State Government requires submission of the approved planning proposal to be sent to Department of Planning Industry and Environment by 30 June 2020.

Attachment 1 has been published separately in the Attachments Document on Council's Website <https://www.innerwest.nsw.gov.au/about/the-council/council-meetings/current-council-meetings>

ATTACHMENTS

1. Draft Inner West Local Environmental Plan 2020 - Written Instrument with Post Exhibition Changes – **(Published separately)**
2. Statement of Council interest for Council Owned land
3. Officer Comments in relation to Submissions

Statement of Council Interest

Council-owned land affected by draft Inner West LEP 2020

This statement is an explanation of why Inner West Local Environmental Plan 2020 (Planning Proposal PPAC/2019/2) has been drafted and identification of land owned by Council which may be affected.

Nature of Council's Interest

Council owns 4 parcels of land within the area of land likely to be affected by rezoning under the draft LEP. The land is utilised for public purposes and no change in use of this land is anticipated as a result of the new Inner West LEP 2020.

Details of each property are provided in the table below.

Purpose of the draft LEP

The draft IWLEP 2020 will consolidate and replace the *Marrickville LEP 2011*, *Leichhardt LEP 2013* and the *Ashfield LEP 2013* into one document that will apply to the land to which the above mentioned LEPs currently apply. A range of amendments to the current DCPs are proposed to ensure they are consistent with the draft Inner West LEP 2020.

The key intent of the proposed rezoning of the 2 areas affected, namely Ashfield Town Centre and Moore Street Industrial Precinct in Leichhardt, is to enable the harmonisation of the three former LEPs, which had quite different approaches to the IN2 Light Industrial zone and to the B2 Local Centre and B4 Mixed Use zones, to create a consistent set of land use controls across Inner West. It is now proposed to retain the IN2 Light Industrial zone for the Moore Street industrial precinct.

Where there were differences in approach between the former Council LEPs, Council's Local Strategic Planning Statement, Council strategies, draft strategies and the Greater Sydney Commission's *Eastern City District Plan* were used to guide the recommended future direction.

Anticipated Development

No change to the current use of Council owned land is anticipated as a result of this amendment to the LEP. Council's Strategic Planning section has prepared and managed the LEP process.

It is acknowledged that Expressions of Interest were sought for the above sites, however, the Strategic Planning section has had no involvement in this, just as Council's Property and Assets section has not been involved in the preparation of the draft LEP.

We now understand that a strategy is being prepared by Council's Property and Assets section following the EOI process, however, no strategy has yet been presented to Council for consideration.

Financial Implications

Preparation of this planning proposal has not been to facilitate any change to the use of the land identified below. This statement has been prepared in accordance with requirements of LEPs and Council Land: Best Practice Guideline 1997.

Ashfield Service Centre (including Town Hall and Library)

260 Liverpool Road, Ashfield	Lot 101 DP 734467
	When Council first acquired an interest in the land
	2 September 1954
	Why Council acquired an interest in the land
	How Council acquired its interest in the land

258 Liverpool Road, Ashfield	Lot 1 DP 215739
	When Council first acquired an interest in the land
	3 September 1998
	Why Council acquired an interest in the land
	How Council acquired its interest in the land
	The property was acquired from Pluteus (No 92) Pty Limited for \$2.5 million.

Attachment to Report to Council on Draft Inner West LEP 2020

Leichhardt Council Community Recycling Facility and Depot

229 Catherine Street, Leichhardt	Lot 1 DP 121452
	<p>When Council of the Municipality of Leichhardt first acquired an interest in the land</p> <p>29 November 1918</p>
	<p>Why Council acquired an interest in the land</p>
	<p>How Council acquired its interest in the land</p>
229 Catherine Street, Leichhardt	Lot 1 DP13428
	<p>When Council of the Municipality of Leichhardt first acquired an interest in the land</p> <p>29 November 1918</p>
	<p>Why Council acquired an interest in the land</p>
	<p>How Council acquired its interest in the land</p>

Appendix 4 - Responses to submissions – not addressed in Council report – LEP 2020

Theme	Issue	Response
RESIDENTIAL	Prohibiting Residential Flat Buildings in B2 – Local Centre Zone – Leichhardt/Ashfield town centre is not consolidation	<ul style="list-style-type: none"> Active Street frontages already required for primary street frontages in B2 - Local Centre Zone in Leichhardt (Clause 6.11A) and Ashfield town centre (Map 7 – Chapter D - DCP) Shop top housing permitted in the B2 - Local Centre Zone allows for multiple dwellings on site in conjunction with an active street frontage Residential development at ground floor levels at rear of sites still permissible such as boarding house, hostel, or seniors housing, this will encourage those forms of residential uses and ensure business zones fulfil their zoning objectives
	Ground floor commercial uses not viable in certain areas	<ul style="list-style-type: none"> Active street frontages are currently required in B1 – Neighbourhood Centre, B2 - Local Centre and B4 – Mixed Use Zones (Ashfield town centre). Only the central part of Ashfield town centre is proposed to be rezoned to B2 - Local Centre Zone with B4 – Mixed Use Zone remaining at the outer areas Investigation into vacant shops and need for additional commercial floor space will be undertaken as part of the LEP/DCP Phase 2 project
	LEP doesn't provide for additional housing supply	<ul style="list-style-type: none"> Council has demonstrated the current controls are sufficient to meet the 0-5 year target set in the Eastern City District Plan for continuation of new housing supply Place based work on uplift areas identified in the adopted Local Strategic Planning Statement & Local Housing Strategy including Ashfield North and has commenced including the development of an Affordable Housing Contributions Scheme and floor space ratio (FSR) increases required to meet housing targets
	Dual occupancies should not be prohibited until minimum lot sizes reduced	<ul style="list-style-type: none"> Pre-emptive to reduce minimum lot sizes prior to completion of place based work being undertaken in the LEP/DCP Phase 2 project Prohibiting dual occupancies now gives Council control over streetscape, character and amenity by ensuring these uses are not permitted as complying development under the State Environmental Planning Policy - Exempt and Complying Development (Codes SEPP). This approach was supported by some submissions received by Council during the exhibition of the LEP.

CAR SHARE	Car share – shouldn't delete Clause C25(c) of Leichhardt DCP 2013 – modify control so that car share space replaces 10 on site car parking spaces rather than 5	<ul style="list-style-type: none"> Only Leichhardt DCP allows this reduction. This clause is deleted to ensure harmonisation with Marrickville and Ashfield DCP. Pre-emptive to modify parking rates prior to comprehensive review to be undertaken in the LEP/DCP Phase 2 project Car share provisions to be established in the LEP/DCP Phase 2 project currently being developed
VICTORIA ROAD	<ul style="list-style-type: none"> Differences between planning proposal and exhibited LEP Prohibition of hotel and motel accommodation and retail in B5 – Business Development Zone is inconsistent with desired future character / site specific controls 	<ul style="list-style-type: none"> Land use matrix was incorrect – showing hotels and motels as being currently prohibited in B5 Business Development Zone (in Marrickville), when they are permitted however the planning proposal and the draft LEP were consistent Planning proposal advised that all forms of residential accommodation and tourist and visitor accommodation will be prohibited in Industrial Zones and B5 - Business Development Zone except for serviced apartments in B5 - Business Development Zone. Retail premises are prohibited in the Marrickville and draft Inner West LEP, however food and drink premises are permitted Hotel or motel accommodation permissible: <ul style="list-style-type: none"> ✓ Within B4 – Mixed Use zone in the Victoria Road Precinct (very close to the relevant B5 - Business Development Zone) ✓ Marrickville Town Centre (B2 – Local Centre Zone) ✓ Along the Princes Highway (B6 – Enterprise Corridor Zone), and ✓ King St (B4 – Mixed Use and B2 – Local Centre Zones)
AGENCY	Clause 6.8 – Airspace operations – submission from Sydney Airport	<ul style="list-style-type: none"> Concerned about such a change at this stage, when we cannot identify/map affected properties or know what the process to be followed would be. This will be reviewed in the LEP Phase 2 project with Sydney Airport.
PROCESS	Inadequate notification	Consistent with Community Engagement Framework, current legislation and the Gateway Determination received from State Government. Exhibition period was extended by over a week. All information was available on Council's website.
	Not adapted to Covid 19	<ul style="list-style-type: none"> Process developed pre-Covid19 and included two information sessions which were cancelled due to public health orders Received numerous submissions and phone calls which provided opportunities to clarify information
	Missed opportunity to update controls	Focus on consolidation and harmonisation; controls will be reviewed and updated in the LEP/DCP Phase 2 project.

HERITAGE	REZONINGS	<p>Including:</p> <ul style="list-style-type: none"> • 235 Catherine Street, Leichhardt • Marrickville metro (13-55 Marrickville) • Summer Hill flour mills 	This matter will be reviewed and considered as part of the LEP/DCP Phase 2 project
		Adding 'including interiors' to properties in former Ashfield	The addition has been made to ensure there is a consistent approach to the management of heritage across the Inner West. This will also enable the "including interiors" to be removed from listings in the future where it has been established that the interiors have no significance. Properties which have made a submission in this regard will be investigated as part of future heritage reviews.
		Listing changed in response to submission includes:	<ul style="list-style-type: none"> • 1-3 Charlotte Street, Ashfield – listing restricted • 2 Clissold Street, Ashfield – removed – evidence on file • 50 Thomas Street, Croydon – removed as repeated • 30-30A Carrington Street, Summer Hill – delete reference to semi-detached • 28 Gower Street, Summer Hill – reverted to 56 Liverpool Rd, Summer Hill • Summer Hill flour mills – 2-32 Smith St, Summer Hill – one lot removed from listing • 40-66 Northumberland Avenue, Stanmore removed from Annandale House Archaeological site listing to ensure consistency between map and instrument • 775-779 Princes Highway removed from listing for Gannon's Inn Archaeological site as they were included in error
		Listings not changed in response to submission	<p>Heritage advice needed – to be looked at in the LEP Phase 2 project for the following properties:</p> <ul style="list-style-type: none"> • 103 Johnston St, Annandale Note: Strata plan needs to be registered with LPI before lots can be listed • 11 and 11a Lucy Street, Ashfield • 50-52 Grosvenor St, Summer Hill • 44 Wellesley Street, Summer Hill
		<p>Haberfield -concern about:</p> <ul style="list-style-type: none"> • changes to the clause • protection of character • new dwellings being located in rear yards (mostly secondary dwellings) 	<p>Clause 6.10 updated to clarify that controls relating to excavation and landscaped area apply to new dwellings as well as alterations and additions to existing dwelling houses.</p> <ul style="list-style-type: none"> • Objective of the control remains "to maintain the single storey appearance of dwellings in the Haberfield Heritage Conservation Area" (as currently) • Can't change SEPP for secondary dwellings • Changes to be considered in LEP Phase 2 Project. • Desired future character is relied upon as the desired future character of heritage conservation areas is to retain their existing character.

Item No: C0620(3) Item 2

Subject: RENT RELIEF FOR TENANTS - COVID 19 CORONAVIRUS

Prepared By: Con Vafeas - Strategic Investments and Property Manager

Authorised By: Elizabeth Richardson - Chief Operating Officer, Director Development & Recreation

RECOMMENDATION

THAT Council:

1. **Adopt the National Cabinet Mandatory Code of Conduct – SME Commercial Leasing Principles During COVID-19 (Code);**
2. **Adopt the subsequent Retail and Other Commercial Leases Covid-19 Regulation 2020 (Regulation) which applies to all retail and commercial leases;**
3. **Adopt the subsequent Residential Tenancies Amendment (COVID-19) Regulation 2020 which applies to all residential leases;**
4. **Voluntarily apply the Code and subsequent Regulations to retrospectively commence on 23 March 2020;**
5. **Voluntarily apply the Code and subsequent Regulations to all Inner West Council tenancies including Licences and any other formal rights to occupy land which are not ordinarily covered by the Code and Regulations; and**
6. **Delegate authority to the CEO (and Staff) to negotiate and finalise the terms for the appropriate rent relief with Inner West Council tenants.**

DISCUSSION

On 25 March 2020, Council's Incident Management Team (IMT) adopted an initial framework for the assessment of claims from Council Tenants for rent relief. This initial framework has since been superseded by the **National Cabinet Mandatory Code of Conduct (Code)** which was announced by Prime Minister Scott Morrison on 7 April 2020. The initial framework adopted by Council's Executive Team and the National Cabinet Mandatory Code of Conduct (Code) are largely similar in principle.

Subsequently, the NSW State Government passed the **Residential Tenancies Amendment (COVID-19) Regulation 2020** on 15 April 2020 which applies to all properties where a residential tenancy agreement is in place. On 24 April 2020, the NSW State Government then passed the **Retail and Other Commercial Leases Covid-19 Regulation 2020 (Regulation)** which applies to all retail and commercial leases.

LEASING PRINCIPLES DURING COVID-19

The Regulations enact the National Cabinet Mandatory Code of Conduct (the Code) which has been drawn up with the aim of:

- sharing the financial risk and cashflow impact during the COVID-19 period; and
- balancing the interests of tenants and landlords.

The Code includes 14 leasing principles, and these principles apply to negotiating amendments in good faith to existing leasing arrangements.

Principles 3, 4 and 5 refer to rent reduction and apply on a case by case basis:

- Principle 3: Landlords must offer reductions in rent (in the form of deferrals and waivers) proportionate to the tenant's decline in turnover.
- Principle 4: Rent waivers (as opposed to deferrals) must constitute at least 50 per cent of the rent reduction.
- Principle 5: Any deferred rent must be paid back over the balance of the lease term or for a period of no less than 24 months, whichever is greater.

Landlords and tenants may opt out of any, or all, of the leasing principles as long as both parties agree to this.

REQUIRED SUPPORTING INFORMATION

In accordance with the Mandatory Code and subsequent Regulations, any Tenants requesting rent relief due to Covid-19 Coronavirus will be required to provide supporting information which substantiates their claim. The information required from a Tenant differs depending upon which regulation is being applied.

Under the Retail and Other Commercial Leases Covid-19 Regulation 2020, a Tenant will be required to provide supporting information described as "Sufficient and accurate information" under the Code and defined as "this includes information generated from an accounting system, and information provided to and/or received from a financial institution, that impacts the timeliness of the Parties making decisions with regard to the financial stress caused as a direct result of the Covid-19 event".

Tenants will be required to provide monthly year on year revenue figures (2020 against 2019) together with bank statements to meet the "Sufficient and accurate information" requirement. In the event a Tenant's revenue cannot be determined through this information further supporting evidence will be requested.

Council has several tenants whose leases have been running for less than 1 year in duration. For these tenants an average of 3 consecutive months revenue figures will be adopted as the base line for comparison.

Under the Residential Tenancies Amendment (COVID-19) Regulation 2020, a Residential Tenant requesting rent relief will be required to demonstrate that:

1. one or more rent-paying members of a household have lost employment or income (or had a reduction in work hours or income) due to the impact of the COVID-19 pandemic, or
2. one or more rent-paying members of a household have had to stop working or reduce work hours due to illness with COVID-19, another member of the household's illness with COVID-19, or COVID-19 carer responsibilities for household or family members, and
3. the above factors result in a household income (inclusive of any government assistance) reduced by 25% or more.

The Regulation allows a Residential Tenant to provide simple documents to show that they are impacted by COVID-19, for example:

- proof of job termination/stand-down, or loss of work hours
- proof of Government income support
- proof of prior income.

APPLICABILITY OF REGULATIONS

The Retail and Other Commercial Leases Covid-19 Regulation 2020 commenced on 24 April 2020 and will be repealed six (6) months after that date (23 October 2020). Tenants affected by the Covid-19 Coronavirus will be unable to make a claim for rent relief after 23 October 2020.

What has been evident is that the Covid-19 Coronavirus impacted upon tenants in late March 2020. Unusually, the Regulation is not retrospective to commence in March and instead it is legislated to commence on 24 April 2020. Council Officers recommend that Council voluntarily apply the Retail and Other Commercial Leases Covid-19 Regulation 2020 from 23 March 2020, being the date restrictions on indoor gatherings closing pubs, clubs, restaurants, cafes gyms and places of worship were introduced. This would allow a more fair and equitable approach to assessing claims for rent relief.

The Residential Tenancies Amendment (COVID-19) Regulation 2020 commenced on 15 April 2020 and applies for a six (6) month duration ending on 14 October 2020 (known as the moratorium period). A Residential Tenant affected by the Covid-19 Coronavirus will be unable to make a claim for rent relief after 14 October 2020. Council Officers also recommend that Council voluntarily apply the Residential Tenancies Amendment (COVID-19) Regulation 2020 from 23 March 2020 for impacted Residential Tenants.

Both Regulations apply to their respective Retail/Commercial and Residential leases. However, neither Regulation applies to Licence Agreements and other unique occupancy tenures. Council has many other tenancies including: Crown Licences, Council Licences, Licence Hire Agreements, Occupancy Deeds, etc. Council Officers recommend that Council voluntarily apply the Code and Regulations to these tenancies that would have otherwise been ineligible to claim for rent relief under the current Code and Regulations.

FINANCIAL IMPLICATIONS

Unfortunately, the actual impact on Council's revenue cannot be fully determined until agreement on rent relief with Tenants is concluded. State and Federal guidelines on reopening businesses coming out of Covid-19 are continually changing which is directly impacting Tenant's revenue.

Under the initial framework approved by Council's IMT on 25 March 2020, over \$100,000 has already been approved in rental relief for Tenants where Council had forced a closure of their tenancy.

Based on information provided to date, it is evident a number of tenants have experienced a reduction in revenue greater than 80%. On this basis, it is estimated that for the period 23 March 2020 to 31 May 2020 40% of monthly revenue will be waived and 40% deferred. Estimates at this point in time would indicate that a negative impact upon Council's rental revenue is likely between \$100,000 to \$400,000.

Many of Council's tenants have already reopened and many more have immediate plans in place to reopen once restrictions are lifted. As restrictions are eased by State and Federal Governments it is expected tenants revenue will increase and accordingly the negative impact on Council's revenue should soften.

ATTACHMENTS

1. [National Cabinet Mandatory Code of Conduct](#)
2. [Residential Tenancies Amendment \(COVID-19\) Regulation 2020](#)
3. [Retail and Other Commercial Leases Covid-19 Regulation 2020](#)

NATIONAL CABINET MANDATORY CODE OF CONDUCT

SME COMMERCIAL LEASING PRINCIPLES DURING COVID-19

PURPOSE

The purpose of this Code of Conduct ("the Code") is to impose a set of good faith leasing principles for application to commercial tenancies (including retail, office and industrial) between owners/operators/other landlords and tenants, where the tenant is an eligible business for the purpose of the Commonwealth Government's JobKeeper programme.

These principles will apply to negotiating amendments in good faith to existing leasing arrangements – to aid the management of cashflow for SME tenants and landlords on a proportionate basis – as a result of the impact and commercial disruption caused by the economic impacts of industry and government responses to the declared Coronavirus ("COVID-19") pandemic.

This Code applies to all tenancies that are suffering financial stress or hardship as a result of the COVID-19 pandemic as defined by their eligibility for the Commonwealth Government's JobKeeper programme, with an annual turnover of up to \$50 million (herein referred to as "SME tenants").

The \$50 million annual turnover threshold will be applied in respect of franchises at the franchisee level, and in respect of retail corporate groups at the group level (rather than at the individual retail outlet level).

The Parties to this Code concur that during the COVID-19 pandemic period, as defined by the period during which the JobKeeper programme is operational, the principles of this Code should nevertheless apply in spirit to all leasing arrangements for affected businesses, having fair regard to the size and financial structure of those businesses.

Appendix I gives examples of proportionate solutions that may be agreed under this Code, and forms part of the overall Code.

The Code has been developed to enable both a consistent national approach and timely, efficient application given the rapid and severe commercial impact of official responses to the COVID-19 pandemic.

PARTIES TO THE CODE

The Code will be given effect through relevant state and territory legislation or regulation as appropriate. The Code is not intended to supersede such legislation, but aims to complement it during the COVID-19 crisis period.

OVERARCHING PRINCIPLES

The objective of the Code is to share, in a proportionate, measured manner, the financial risk and cashflow impact during the COVID-19 period, whilst seeking to appropriately balance the interests of tenants and landlords.

It is intended that landlords will agree tailored, bespoke and appropriate temporary arrangements for each SME tenant, taking into account their particular circumstances on a case-by-case basis.

The following overarching principles of this Code will apply in guiding such arrangements:

- Landlords and tenants share a common interest in working together, to ensure business continuity, and to facilitate the resumption of normal trading activities at the end of the COVID-19 pandemic during a reasonable recovery period.
- Landlords and tenants will be required to discuss relevant issues, to negotiate appropriate temporary leasing arrangements, and to work towards achieving mutually satisfactory outcomes.
- Landlords and tenants will negotiate in good faith.
- Landlords and tenants will act in an open, honest and transparent manner, and will each provide sufficient and accurate information within the context of negotiations to achieve outcomes consistent with this Code.
- Any agreed arrangements will take into account the impact of the COVID-19 pandemic on the tenant, with specific regard to its revenue, expenses, and profitability. Such arrangements will be proportionate and appropriate based on the impact of the COVID-19 pandemic plus a reasonable recovery period.
- The Parties will assist each other in their respective dealings with other stakeholders including governments, utility companies, and banks/other financial institutions in order to achieve outcomes consistent with the objectives of this Code.
- All premises are different, as are their commercial arrangements; it is therefore not possible to form a collective industry position. All parties recognise the intended application, legal constraints and spirit of the Competition and Consumer Act 2010.
- The Parties will take into account the fact that the risk of default on commercial leases is ultimately (and already) borne by the landlord. The landlord must not seek to permanently mitigate this risk in negotiating temporary arrangements envisaged under this Code.

- All leases must be dealt with on a case-by-case basis, considering factors such as whether the SME tenant has suffered financial hardship due to the COVID-19 pandemic; whether the tenant's lease has expired or is soon to expire; and whether the tenant is in administration or receivership.
- Leases have different structures, different periods of tenure, and different mechanisms for determining rent. Leases may already be in arrears. Leases may already have expired and be in "hold-over." These factors should also be taken into account in formulating any temporary arrangements in line with this Code.
- As the objective of this Code is to mitigate the impact of the COVID-19 pandemic on the tenant, due regard should be given to whether the tenant is in administration or receivership, and the application of the Code modified accordingly.

LEASING PRINCIPLES

In negotiating and enacting appropriate temporary arrangements under this Code, the following leasing principles should be applied as soon as practicable on a case-by-case basis:

1. Landlords must not terminate leases due to non-payment of rent during the COVID-19 pandemic period (or reasonable subsequent recovery period).
2. Tenants must remain committed to the terms of their lease, subject to any amendments to their rental agreement negotiated under this Code. Material failure to abide by substantive terms of their lease will forfeit any protections provided to the tenant under this Code.
3. Landlords must offer tenants proportionate reductions in rent payable in the form of waivers and deferrals (as outlined under "definitions," below) of up to 100% of the amount ordinarily payable, on a case-by-case basis, based on the reduction in the tenant's trade during the COVID-19 pandemic period and a subsequent reasonable recovery period.
4. Rental waivers must constitute no less than 50% of the total reduction in rent payable under principle #3 above over the COVID-19 pandemic period and should constitute a greater proportion of the total reduction in rent payable in cases where failure to do so would compromise the tenant's capacity to fulfil their ongoing obligations under the lease agreement. Regard must also be had to the Landlord's financial ability to provide such additional waivers. Tenants may waive the requirement for a 50% minimum waiver by agreement.
5. Payment of rental deferrals by the tenant must be amortised over the balance of the lease term and for a period of no less than 24 months, whichever is the greater, unless otherwise agreed by the parties.

6. Any reduction in statutory charges (e.g. land tax, council rates) or insurance will be passed on to the tenant in the appropriate proportion applicable under the terms of the lease.

7. A landlord should seek to share any benefit it receives due to deferral of loan payments, provided by a financial institution as part of the Australian Bankers Association's COVID-19 response, or any other case-by-case deferral of loan repayments offered to other Landlords, with the tenant in a proportionate manner.

8. Landlords should where appropriate seek to waive recovery of any other expense (or outgoing payable) by a tenant, under lease terms, during the period the tenant is not able to trade. Landlords reserve the right to reduce services as required in such circumstances.

9. If negotiated arrangements under this Code necessitate repayment, this should occur over an extended period in order to avoid placing an undue financial burden on the tenant. No repayment should commence until the earlier of the COVID-19 pandemic ending (as defined by the Australian Government) or the existing lease expiring, and taking into account a reasonable subsequent recovery period.

10. No fees, interest or other charges should be applied with respect to rent waived in principles #3 and #4 above and no fees, charges nor punitive interest may be charged on deferrals in principles #3, #4 and #5 above.

11. Landlords must not draw on a tenant's security for the non-payment of rent (be this a cash bond, bank guarantee or personal guarantee) during the period of the COVID-19 pandemic and/or a reasonable subsequent recovery period.

12. The tenant should be provided with an opportunity to extend its lease for an equivalent period of the rent waiver and/or deferral period outlined in item #2 above. This is intended to provide the tenant additional time to trade, on existing lease terms, during the recovery period after the COVID-19 pandemic concludes.

13. Landlords agree to a freeze on rent increases (except for retail leases based on turnover rent) for the duration of the COVID-19 pandemic and a reasonable subsequent recovery period, notwithstanding any arrangements between the landlord and the tenant.

14. Landlords may not apply any prohibition on levy any penalties if tenants reduce opening hours or cease to trade due to the COVID-19 pandemic.

BINDING MEDIATION

Where landlords and tenants cannot reach agreement on leasing arrangements (as a direct result of the COVID-19 pandemic), the matter should be referred and subjected (by either party) to applicable state or

territory retail/commercial leasing dispute resolution processes for binding mediation, including Small Business Commissioners/Champions/Ombudsmen where applicable.

Landlords and tenants must not use mediation processes to prolong or frustrate the facilitation of amicable resolution outcomes.

DEFINITIONS

The following definitions are provided for reference in the application of this Code.

1. Financial Stress or Hardship: an individual, business or company's inability to generate sufficient revenue as a direct result of the COVID-19 pandemic (including government-mandated trading restrictions) that causes the tenant to be unable to meet its financial and/or contractual (including retail leasing) commitments. SME tenants which are eligible for the federal government's JobKeeper payment are automatically considered to be in financial distress under this Code.
2. Sufficient and accurate information: this includes information generated from an accounting system, and information provided to and/or received from a financial institution, that impacts the timeliness of the Parties making decisions with regard to the financial stress caused as a direct result of the COVID-19 event.
3. Waiver and deferral: any reference to waiver and deferral may also be interpreted to include other forms of agreed variations to existing leases (such as deferral, pausing and/or hibernating the lease), or any other such commercial outcome of agreements reached between the parties. Any amount of reduction provided by a waiver may not be recouped by the Landlord over the term of the lease.
4. Proportionate: the amount of rent relief proportionate to the reduction in trade as a result of the COVID-19 pandemic plus a subsequent reasonable recovery period, consistent with assessments undertaken for eligibility for the Commonwealth's JobKeeper programme.

CODE ADMINISTRATION COMMITTEE

This Code will be supported by state based Industry Code Administration Committees, comprising representatives from relevant industry bodies representing landlord, tenant and SME interests, with an Independent Chair appointed by the relevant State/Territory Government.

Committee members' roles will be to (1) promote awareness of the Code; (2) encourage application of the Code; (3) encourage its application by the broader retail industry; and (4) monitor the operation of the Code.

The Committee should meet at least fortnightly, and may communicate and meet via email, telephone calls, or video conferencing.

No formal minutes will be taken; however, the Committee will document key action items and outcomes of each meeting.

The Committee may invite advisers, upon agreement by all Committee members, to assist on specific issues in the course of discharging their obligations under this section.

COMMENCEMENT/EXPIRY

This Code comes into effect in all states and territories from a date following 3 April 2020 (being the date that National Cabinet agreed to a set of principles to guide the Code to govern commercial tenancies as affected by the COVID-19 pandemic) to be defined by each jurisdiction, for the period during which the Commonwealth JobKeeper program remains operational.

APPENDIX I

EXAMPLES OF THE APPLICATION OF THE PRINCIPLE OF PROPORTIONALITY

The following scenarios are examples only, noting the circumstance of each landlord, SME tenant and lease are different, and are subject to negotiation and agreement in good faith.

Examples of practical variations reflecting the application of the principle of proportionality may include, but are not limited to:

- Qualifying tenants would be provided with cash flow relief in proportion to the loss of turnover they have experienced from the COVID-19 crisis
 - ie. a 60% loss in turnover would result in a guaranteed 60% cash flow relief.
 - At a minimum, half is provided as rent free/rent waiver for the proportion of which the qualifying tenant's revenue has fallen.
 - Up to half could be through a deferral of rent, with this to be recouped over at least 24 months in a manner that is negotiated by the parties
 - So if the tenant's revenue has fallen by 100%, then at least 50% of total cash flow relief is rent free/rent waiver and the remainder is a rent deferral. If the qualifying tenant's revenue has fallen by 30%, then at least 15% of total cash flow relief is rent free/rent waiver and the remainder is rent deferral.
 - Care should be taken to ensure that any repayment of the deferred rent does not compromise the ability of the affected SME tenant to recover from the crisis.
 - The parties would be free to make an alternative commercial arrangement to this formula if that is their wish.



New South Wales

Residential Tenancies Amendment (COVID-19) Regulation 2020

under the

Residential Tenancies Act 2010

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Residential Tenancies Act 2010*.

KEVIN ANDERSON, MP
Minister for Better Regulation and Innovation

Explanatory note

The object of this Regulation is to—

- (a) generally prohibit, in the 6 months after the commencement of the regulation (the *moratorium period*), a landlord (under a residential tenancy agreement other than a social housing tenancy agreement) from—
 - (i) giving a tenant who is a member of a household financially impacted by the COVID-19 pandemic (an *impacted tenant*) a termination notice under the *Residential Tenancies Act 2010* for non-payment of rent or charges, or
 - (ii) applying to NSW Civil and Administrative Tribunal (NCAT) under the *Residential Tenancies Act 2010* for a termination order relating to a termination notice given to an impacted tenant for non-payment of rent or charges, or
 - (iii) otherwise applying to NCAT for a termination order in relation to the residential tenancy agreement solely on the ground that an impacted tenant has failed to pay rent or charges, and
- (b) provide that, during the moratorium period, a landlord (under a residential tenancy agreement other than a social housing tenancy agreement) may only evict an impacted tenant for non-payment of rent or charges if—
 - (i) the landlord gives a termination notice, or applies for a termination order, at least 60 days after the commencement of the regulation, and
 - (ii) the landlord and impacted tenant have participated, in good faith, in a formal rent negotiation process about the rent or charges payable, and
 - (iii) it is fair and reasonable in the circumstances of the case for the landlord to give the termination notice or apply for the order, and
- (c) require a landlord (under a residential tenancy agreement other than a social housing tenancy agreement) to give at least 90 days notice of the termination of—
 - (i) a fixed term tenancy at the end of the term, or
 - (ii) a periodic tenancy, or
 - (iii) a tenancy because of a breach of the residential tenancy agreement (other than non-payment of rent or charges), or

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Residential Tenancies Amendment (COVID-19) Regulation 2020 [NSW]
Explanatory note

- (iv) a tenancy of 20 years or more, and
- (d) prohibit a landlord (under a residential tenancy agreement other than a social housing tenancy agreement) from listing an impacted tenant on a residential tenancy database for the non-payment of rent or charges, and
- (e) prescribe, during the moratorium period, the minimum period of written notice the proprietor of a boarding house must give a resident financially impacted by the COVID-19 pandemic (an **impacted resident**) of an eviction based solely on the non-payment of fees (including occupancy fees or rent) or fees for services as follows—
 - (i) if the proprietor and impacted resident have participated in negotiations about the fees but were not able to reach agreement because the impacted resident did not participate in good faith—60 days, or
 - (ii) otherwise—6 months, and
- (f) prescribe, during the moratorium period, that the proprietor of a boarding house must give a resident 90 days written notice of eviction, unless the eviction is based on—
 - (i) the resident causing or permitting serious damage to the premises or other residents' property, or
 - (ii) the resident using the premises for illegal purposes, or
 - (iii) the resident threatening, abusing, intimidating or harassing other residents, or
 - (iv) the non-payment of fees (including occupancy fees or rent) or fees for services, unless the resident is an impacted resident.

This Regulation is made under the *Residential Tenancies Act 2010*, including sections 224 (the general regulation-making power) and 229(1)(a), (b) and (c).

Residential Tenancies Amendment (COVID-19) Regulation 2020 [NSW]

Residential Tenancies Amendment (COVID-19) Regulation 2020

under the

Residential Tenancies Act 2010

1 Name of Regulation

This Regulation is the *Residential Tenancies Amendment (COVID-19) Regulation 2020*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Residential Tenancies Regulation 2019

Part 6A

Insert after Part 6—

Part 6A Response to COVID-19 pandemic

41A Definitions

In this Part—

formal rent negotiation process means a dispute resolution process between a landlord and an impacted tenant, facilitated by NSW Fair Trading, to negotiate the rent payable under a residential tenancy agreement having regard to the specific circumstances of the landlord and the impacted tenant.

household means any tenants or other persons living together in the same residential premises.

impacted tenant means a tenant who is a member of a household impacted by the COVID-19 pandemic.

landlord does not include a landlord who is a social housing provider.

moratorium period means the period ending at the end of the day that is 6 months after the day on which this Part commences.

rent-paying member of a household means any member of the household who regularly contributes towards the rent payable under a residential tenancy agreement for the residential premises in which the household resides.

residential tenancy agreement does not include a social housing tenancy agreement.

tenant does not include a tenant under a social housing tenancy agreement.

41B When a household is impacted by the COVID-19 pandemic

- (1) For the purposes of this Part, a household is impacted by the COVID-19 pandemic if—
 - (a) any 1 or more rent-paying members of the household have—
 - (i) lost employment or income as a result of the impact of the COVID-19 pandemic, or
 - (ii) had a reduction in work hours or income as a result of the impact of the COVID-19 pandemic, or
 - (iii) had to stop working, or materially reduce the member's work hours, because of—
 - (A) the member's illness with COVID-19, or
 - (B) another member of the household's illness with COVID-19, or
 - (C) the member's carer responsibilities for a family member ill with COVID-19, and
 - (b) as a result of any of the matters stated in paragraph (a), the weekly household income for the household has been reduced by at least 25% compared to the weekly household income for the household before the occurrence of any of the matters.
- (2) In this clause—

weekly household income means the total of the weekly income, including any government payments, received by each rent-paying member of the household.

41C Prohibition on landlords terminating agreements or recovering possession during moratorium period

- (1) For the purposes of section 229(1) of the Act, a landlord is prohibited from doing any of the following during the moratorium period—
 - (a) giving an impacted tenant a termination notice under section 87 of the Act on the ground specified in section 88 of the Act,
 - (b) applying to the Tribunal for an order under section 83(2) of the Act relating to a termination notice given under section 87 of the Act on the ground specified in section 88 of the Act to an impacted tenant,
 - (c) otherwise applying to the Tribunal for a termination order in relation to a residential tenancy agreement on the ground specified in section 88 of the Act if the tenant under the agreement is an impacted tenant.

Note— Section 88 of the Act relates to a termination notice given by a landlord on the ground of a breach of the residential tenancy agreement arising solely from a failure to pay rent, water usage charges or utility charges payable by the tenant.
- (2) However, a landlord may give a termination notice or apply for an order that the landlord is otherwise prohibited from giving or applying for under subclause (1) if—
 - (a) the termination notice is given, or the application is made, at least 60 days after the commencement of this Part, and
 - (b) the landlord has participated, in good faith, in a formal rent negotiation process with the impacted tenant, and
 - (c) it is fair and reasonable in the circumstances of the case for the landlord to give the termination notice or apply for the order.
- (3) For the purposes of section 111(2) of the Act, a termination notice that is not given in accordance with this clause is taken not to have been given in accordance with Part 5 of the Act.
- (4) In dealing with an application by a landlord or an impacted tenant relating to a termination notice or a termination order, the Tribunal may, for the purposes of satisfying itself of the matters specified in subclause (2)(b) and (c), have regard to the following—
 - (a) any advice provided by NSW Fair Trading relating to the participation of the landlord or impacted tenant in the formal rent negotiation process, including whether the landlord or impacted tenant refused, or refused to make, a reasonable offer about rent,
 - (b) whether the impacted tenant has continued to make any payments towards the rent,
 - (c) the nature of any financial hardship experienced by the landlord or impacted tenant, including the general financial position of each party,
 - (d) the availability and affordability of reasonable alternative accommodation for the impacted tenant,
 - (e) any special vulnerability of the impacted tenant,
 - (f) the public health objectives of—
 - (i) ensuring citizens remain in their homes, and
 - (ii) preventing all avoidable movement of persons.

- (5) Subclause (4) does not limit the matters that the Tribunal may have regard to.

41D Termination dates for particular termination notices given during moratorium period

- (1) This clause provides, for the purposes of section 229(1)(c) of the Act, for the regulation of a landlord's right to specify a termination date in a termination notice given under particular provisions of the Act during the moratorium period.
- (2) Despite any other provision of the Act or this regulation, a landlord must not, in a termination notice given under the following provisions during the moratorium period, specify a termination date that is earlier than 90 days after the day on which the notice is given—
 - (a) section 84,
 - (b) section 85,
 - (c) section 87 (other than a termination notice on the ground specified in section 88),

Note— Section 88 of the Act relates to a termination notice given by a landlord on the ground of a breach of the residential tenancy agreement arising solely from a failure to pay rent, water usage charges or utility charges payable by the tenant.

- (d) section 94.

41E Restriction on listing impacted tenants in residential tenancy databases

- (1) This clause provides, for the purposes of section 229(1)(c) of the Act, for the regulation of a landlord's right to list personal information about a person in a residential tenancy database.
- (2) Despite section 212 of the Act, a landlord or agent of a landlord must not list personal information about a person in a residential tenancy database if—
 - (a) the breach of the residential tenancy agreement arose solely from a failure to pay rent or charges specified in section 88(1) of the Act, and
 - (b) at the time of the breach, the person was an impacted tenant.

Residential Tenancies Amendment (COVID-19) Regulation 2020 [NSW]
Schedule 2 Amendment of Boarding Houses Regulation 2013

Schedule 2 Amendment of Boarding Houses Regulation 2013

Part 5

Insert after Part 4—

Part 5 Response to COVID-19 pandemic

32 Definitions

In this Part—

impacted resident means a resident of a boarding house who is impacted by the COVID-19 pandemic.

moratorium period means the period ending at the end of the day that is 6 months after the day on which this Part commences.

residency fees means the fees payable in connection with a residency (including any occupancy fee or rent) or fees for services payable under an occupancy agreement.

33 When a resident is impacted by the COVID-19 pandemic

- (1) For the purposes of this Part, a resident is impacted by the COVID-19 pandemic if—
 - (a) the resident has—
 - (i) lost employment or income as a result of the impact of the COVID-19 pandemic, or
 - (ii) had a reduction in work hours or income as a result of the impact of the COVID-19 pandemic, or
 - (iii) had to stop working, or materially reduce the resident's work hours, because of—
 - (A) the resident's illness with COVID-19, or
 - (B) the resident's carer responsibilities for a family member ill with COVID-19, and
 - (b) as a result of any of the matters stated in paragraph (a), the resident's weekly income has been reduced by at least 25% compared to the resident's weekly income before the occurrence of any of the matters.
- (2) In this clause—

resident's weekly income means the total of the income, including any government payments relating to the COVID-19 pandemic, received by the resident in a week.

34 Notices of eviction to impacted residents for non-payment of residency fees during moratorium period

- (1) This clause regulates, for the purposes of section 229(1)(c) of the *Residential Tenancies Act 2010*, the notice that a proprietor must give an impacted resident if the proprietor intends to evict the impacted resident solely on the ground that the impacted resident has not paid residency fees payable under an occupancy agreement during the moratorium period.
- (2) The proprietor must give the impacted resident the following notice of the eviction—
 - (a) if the proprietor has participated, in good faith, in a formal rent negotiation process with the impacted resident but an agreement about

the residency fees was not reached because the impacted resident did not participate in the process in good faith—60 days written notice,

(b) otherwise—6 months written notice.

(3) If a proprietor has not given notice in accordance with this clause, the proprietor is taken not to have complied with the occupancy principles as the principles apply under Part 3 of the Act.

(4) In this clause—

formal rent negotiation process means a dispute resolution process between a proprietor and an impacted resident, facilitated by an independent third party, to negotiate the residency fees payable under an occupancy agreement having regard to the specific circumstances of the proprietor and the impacted resident.

35 Notices of eviction to residents on particular grounds during moratorium period

(1) This clause regulates, for the purposes of section 229(1)(c) of the *Residential Tenancies Act 2010*, the notice that a proprietor must give a resident if the proprietor intends to evict the resident on a ground other than an excluded ground during the moratorium period.

(2) The proprietor must give the resident not less than 90 days written notice of the eviction.

(3) If a proprietor has not given notice in accordance with this clause, the proprietor is taken not to have complied with the occupancy principles as the principles apply under Part 3 of the Act.

(4) In this clause—

excluded ground means any of the following grounds—

- (a) the resident has not paid residency fees payable under the occupancy agreement, but only if the resident is not an impacted resident,
- (b) the resident has intentionally or recklessly caused or permitted serious damage to the premises or other residents' property,
- (c) the resident is using the premises for illegal purposes,
- (d) the resident has threatened, abused, intimidated or harassed other residents or the proprietor.



New South Wales

Retail and Other Commercial Leases (COVID-19) Regulation 2020

under the

Retail Leases Act 1994

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Retail Leases Act 1994*.

DAMIEN TUDEHOPE, MLC
Minister for Finance and Small Business

Explanatory note

The object of this Regulation is to give effect to the *National Cabinet Mandatory Code of Conduct—SME Commercial Leasing Principles During COVID-19* adopted by the National Cabinet on 7 April 2020. In particular, the Regulation—

- (a) prohibits and regulates the exercise of certain rights of lessors relating to the enforcement of certain commercial leases during the COVID-19 pandemic period, and
- (b) requires, in response to the COVID-19 pandemic, that lessors and lessees renegotiate the rent and other terms of those commercial leases in good faith having regard to the leasing principles set out in the National Code of Conduct, before any legal enforcement action of the terms of those commercial leases can be commenced.

This Regulation is made under the *Retail Leases Act 1994*, including sections 85 (the general regulation-making power) and 87 and under section 202 (the general regulation-making power) of the *Conveyancing Act 1919*.

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*—namely, matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth or another State or Territory.

This Regulation is made with the agreement of the Minister for Customer Service, being the Minister administering the *Conveyancing Act 1919*.

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Retail and Other Commercial Leases (COVID-19) Regulation 2020 [NSW]
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Retail and Other Commercial Leases (COVID-19) Regulation 2020 [NSW]

Retail and Other Commercial Leases (COVID-19) Regulation 2020

under the

Retail Leases Act 1994

1 Name of Regulation

This Regulation is the *Retail and Other Commercial Leases (COVID-19) Regulation 2020*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

3 Definitions

(1) In this Regulation—

business means an undertaking (whether or not carried on with a view to profit) involving the manufacture, sale or supply of goods or services.

commercial lease means a retail shop lease, but does not include the following—

- (a) a lease entered into after the commencement of this Regulation, but not a lease entered into by means of an option to extend or renew the lease or any other extension or renewal of an existing lease on the same terms as the existing lease,
- (b) a lease under the *Agricultural Tenancies Act 1990*,
- (c) a commercial lease within the meaning of Schedule 5 to the *Conveyancing (General) Regulation 2018*.

impacted lessee—see clause 4.

lessee means the person who has the right to occupy premises or land under a commercial lease.

lessor means the person who grants the right to occupy premises or land under a commercial lease.

National Code of Conduct means the *National Cabinet Mandatory Code of Conduct—SME Commercial Leasing Principles During COVID-19* adopted on 7 April 2020.

Note. The *National Cabinet Mandatory Code of Conduct—SME Commercial Leasing Principles During COVID-19* can be accessed at <https://www.pm.gov.au/sites/default/files/files/national-cabinet-mandatory-code-ofconduct-sme-commercial-leasing-principles.pdf>

prescribed action means taking action under the provisions of a commercial lease or seeking orders or issuing proceedings in a court or tribunal for any of the following—

- (a) eviction of the lessee from premises or land the subject of the commercial lease,
- (b) exercising a right of re-entry to premises or land the subject of the commercial lease,

Retail and Other Commercial Leases (COVID-19) Regulation 2020 [NSW]

- (c) recovery of the premises or land,
- (d) distraint of goods,
- (e) forfeiture,
- (f) damages,
- (g) requiring a payment of interest on, or a fee or charge related to, unpaid rent otherwise payable by a lessee,
- (h) recovery of the whole or part of a security bond under the commercial lease,
- (i) performance of obligations by the lessee or any other person pursuant to a guarantee under the commercial lease,
- (j) possession,
- (k) termination of the commercial lease,
- (l) any other remedy otherwise available to a lessor against a lessee at common law or under the law of this State.

prescribed period means the period ending at the end of the day that is 6 months after the day on which this Regulation commences.

the Act means the *Retail Leases Act 1994*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

- (2) Notes included in this Regulation do not form part of this Regulation.

4 Meaning of "impacted lessee"

- (1) A lessee is an **impacted lessee** if—
 - (a) the lessee qualifies for the jobkeeper scheme under sections 7 and 8 of the *Coronavirus Economic Response Package (Payments and Benefits) Rules 2020* of the Commonwealth, and
 - (b) the following turnover in the 2018–2019 financial year was less than \$50 million—
 - (i) if the lessee is a franchisee—the turnover of the business conducted at the premises or land concerned,
 - (ii) if the lessee is a corporation that is a member of a group—the turnover of the group,
 - (iii) in any other case—the turnover of the business conducted by the lessee.
- (2) To avoid doubt, in this clause, **turnover** of a business includes any turnover derived from internet sales of goods or services.
- (3) In this clause, corporations constitute a **group** if they are related bodies corporate within the meaning of the *Corporations Act 2001* of the Commonwealth.

5 Application of Regulation

This Regulation applies to the exercise or enforcement of rights under a commercial lease in relation to circumstances occurring during the prescribed period.

6 Prohibitions and restrictions relating to commercial leases

- (1) If a lessee is an impacted lessee, a lessor must not take any prescribed action against the lessee on the grounds of a breach of the commercial lease during the prescribed period consisting of—
 - (a) a failure to pay rent, or
 - (b) a failure to pay outgoings, or

Retail and Other Commercial Leases (COVID-19) Regulation 2020 [NSW]

- (c) the business operating under the lease not being open for business during the hours specified in the lease.

Note. See leasing principles No. 1, 11 and 14 in the National Code of Conduct.

- (2) If, during the prescribed period, a lessee under a commercial lease is an impacted lessee, the rent payable under the commercial lease (other than rent or a component of rent determined by reference to turnover) must not be increased.

Note. See leasing principle No. 13 in the National Code of Conduct.

- (3) If, during the prescribed period, a lessee under a commercial lease was an impacted lessee, a lessor must not, after the prescribed period, take any prescribed action against the lessee on the grounds of a breach of the commercial lease consisting of a failure to pay an amount equivalent to or representing the rent increase amount referred to in subclause (2).

Note. See leasing principle No. 13 in the National Code of Conduct.

- (4) If an impacted lessee is required by a provision of a commercial lease to pay a fixed amount that represents an amount of land tax or any other statutory charge (such as local council rates) or insurance payable by a lessor and the amount of the land tax or other statutory charge or insurance payable is reduced, the impacted lessee is exempted from the operation of the provision to the extent of the reduction.

Note. See leasing principle No. 6 in the National Code of Conduct.

- (5) An act or omission of a lessee required under a law of the Commonwealth or the State in response to the COVID-19 pandemic—

- (a) is taken not to amount to a breach of a commercial lease, and
- (b) does not constitute grounds for termination of the lease or the taking of any prescribed action by the lessor against the lessee.

- (6) Nothing in this clause prevents a lessor and lessee agreeing to the parties taking any action in relation to the commercial lease (including the lessor taking any prescribed action or the parties agreeing to terminate the commercial lease).

7 Obligation to renegotiate rent and other terms of commercial leases before prescribed action

- (1) A lessor under a commercial lease must not take or continue any prescribed action against an impacted lessee on grounds of a breach of the commercial lease consisting of a failure to pay rent during the prescribed period unless the lessor has complied with this clause.

Note. This clause does not prevent parties to a commercial lease coming to agreements relating to the lease. For example, an impacted lessee may voluntarily agree to pay full rent during the prescribed period. The clause prevents the lessor taking unilateral prescribed action without complying with the requirements set out in subclauses (2)–(4).

- (2) If an impacted lessee is a party to a commercial lease, any party to the lease may request the other parties to renegotiate the rent payable under, and other terms of, the commercial lease.

- (3) A party to a commercial lease must, if requested, renegotiate in good faith the rent payable under, and other terms of, the commercial lease.

- (4) The parties are to renegotiate the rent payable under, and other terms of, the commercial lease having regard to—

- (a) the economic impacts of the COVID-19 pandemic, and
- (b) the leasing principles set out in the National Code of Conduct.

Note. See leasing principles No. 3–5, 7–10 and 12 in the National Code of Conduct.

Retail and Other Commercial Leases (COVID-19) Regulation 2020 [NSW]

In particular, leasing principle No. 3 in the National Code of Conduct requires landlords to offer rent reductions, in the form of waivers or deferrals of rent, proportionate to lessees' reductions in turnover.

8 Dispute resolution

- (1) To avoid doubt, Part 8 (Dispute resolution) of the Act extends to an impacted commercial lease dispute as if it were a retail tenancy dispute within the meaning of that Part.
- (2) In this clause, **impacted commercial lease dispute** means any dispute concerning the liabilities or obligations (including any obligation to pay money) under a commercial lease to which an impacted lessee is a party, being liabilities or obligations which arose under the commercial lease concerning circumstances occurring during the prescribed period and includes a dispute regarding a renegotiation (or a failure to take part in a renegotiation) of rent payable under the commercial lease under clause 7.

9 Tribunal and court consideration of National Code of Conduct leasing principles

The Tribunal and any court, when considering whether to make a decision or order relating to any of the following, is to have regard to the leasing principles set out in the National Code of Conduct—

- (a) the recovery of possession of premises or land from a lessee,
- (b) the termination of a commercial lease by a lessor,
- (c) the exercise or enforcement of another right of a lessor of premises or land.

10 Lessor action for non-COVID-19 pandemic related reasons

Nothing in this Regulation prevents a lessor taking a prescribed action on grounds not related to the economic impacts of the COVID-19 pandemic.

Note. For example, a lessor may terminate a commercial lease if the lessee has breached the lease by damaging the premises concerned or may take action if a lessee fails to vacate premises following the expiry of a fixed term commercial lease.

See leasing principle No. 2 in the National Code of Conduct.

11 Equity and law preserved

Nothing in this Regulation excludes the rules of equity and of common law from applying to the determination of a dispute concerning—

- (a) the recovery of possession of premises or land from a lessee, or
- (b) the termination of a commercial lease by a lessor, or
- (c) the exercise or enforcement of another right of a lessor of premises or land.

12 Repeal

This Regulation is repealed on the day that is 6 months after the day on which it commences.

Note. See section 87(4) of the *Retail Leases Act 1994* regarding the duration of regulations made under Part 11 (Response to COVID-19 pandemic) of that Act.

Retail and Other Commercial Leases (COVID-19) Regulation 2020 [NSW]
Schedule 1 Amendment of Conveyancing (General) Regulation 2018

Schedule 1 Amendment of Conveyancing (General) Regulation 2018

Schedule 5

Insert after Schedule 4—

Schedule 5 Commercial leases—COVID-19 pandemic special provisions

1 Definitions

In this Schedule—

business means an undertaking (whether or not carried on with a view to profit) involving the manufacture, sale or supply of goods or services.

commercial lease means any agreement to which the Act applies relating to the leasing of premises or land for commercial purposes, but does not include the following—

- (a) a lease entered into after the commencement of this Schedule, but not a lease entered into by means of an option to extend or renew the lease or any other extension or renewal of an existing lease on the same terms as the existing lease,
- (b) a retail shop lease under the *Retail Leases Act 1994*,
- (c) a lease under the *Agricultural Tenancies Act 1990*.

impacted lessee—see clause 2.

lessee means the person who has the right to occupy premises or land under a commercial lease.

lessor means the person who grants the right to occupy premises or land under a commercial lease.

National Code of Conduct means the *National Cabinet Mandatory Code of Conduct—SME Commercial Leasing Principles During COVID-19* adopted on 7 April 2020.

Note. The *National Cabinet Mandatory Code of Conduct—SME Commercial Leasing Principles During COVID-19* can be accessed at <https://www.pm.gov.au/sites/default/files/files/national-cabinet-mandatory-code-ofconduct-sme-commercial-leasing-principles.pdf>

prescribed action means taking action under the provisions of a commercial lease or seeking orders or issuing proceedings in a court or tribunal for any of the following—

- (a) eviction of the lessee from premises or land the subject of the commercial lease,
- (b) exercising a right of re-entry to premises or land the subject of the commercial lease,
- (c) recovery of the premises or land,
- (d) distraint of goods,
- (e) forfeiture,
- (f) damages,
- (g) requiring a payment of interest on, or a fee or charge related to, unpaid rent otherwise payable by a lessee,
- (h) recovery of the whole or part of a security bond under the commercial lease,

- (i) performance of obligations by the lessee or any other person pursuant to a guarantee under the commercial lease,
- (j) possession,
- (k) termination of the commercial lease,
- (l) any other remedy otherwise available to a lessor against a lessee at common law or under the law of this State.

prescribed period means the period ending at the end of the day that is 6 months after the day on which the *Retail and Other Commercial Leases (COVID-19) Regulation 2020* commences.

2 Meaning of "impacted lessee"

- (1) A lessee is an **impacted lessee** if—
 - (a) the lessee qualifies for the jobkeeper scheme under sections 7 and 8 of the *Coronavirus Economic Response Package (Payments and Benefits) Rules 2020* of the Commonwealth, and
 - (b) the following turnover in the 2018–2019 financial year was less than \$50 million—
 - (i) if the lessee is a franchisee—the turnover of the business conducted at the premises or land concerned,
 - (ii) if the lessee is a corporation that is a member of a group—the turnover of the group,
 - (iii) in any other case—the turnover of the business conducted by the lessee.
- (2) To avoid doubt, in this clause, **turnover** of a business includes any turnover derived from internet sales of goods or services.
- (3) In this clause, corporations constitute a **group** if they are related bodies corporate within the meaning of the *Corporations Act 2001* of the Commonwealth.

3 Application of Schedule

This Schedule applies to the exercise or enforcement of rights under a commercial lease in relation to circumstances occurring during the prescribed period.

4 Prohibitions and restrictions relating to commercial leases

- (1) If a lessee is an impacted lessee, a lessor must not take any prescribed action against the lessee on the grounds of a breach of the commercial lease during the prescribed period consisting of—
 - (a) a failure to pay rent, or
 - (b) a failure to pay outgoings, or
 - (c) the business operating under the lease not being open for business during the hours specified in the lease.

Note. See leasing principles No. 1, 11 and 14 in the National Code of Conduct.

- (2) If, during the prescribed period, a lessee under a commercial lease is an impacted lessee, the rent payable under the commercial lease (other than rent or a component of rent determined by reference to turnover) must not be increased.

Note. See leasing principle No. 13 in the National Code of Conduct.

- (3) If, during the prescribed period, a lessee under a commercial lease was an impacted lessee, a lessor must not, after the prescribed period, take any prescribed action against the lessee on the grounds of a breach of the commercial lease consisting of a failure to pay an amount equivalent to or representing the rent increase amount referred to in subclause (2).

Note. See leasing principle No. 13 in the National Code of Conduct.

- (4) If an impacted lessee is required by a provision of a commercial lease to pay a fixed amount that represents an amount of land tax or any other statutory charge (such as local council rates) or insurance payable by a lessor and the amount of the land tax or other statutory charge or insurance payable is reduced, the impacted lessee is exempted from the operation of the provision to the extent of the reduction.

Note. See leasing principle No. 6 in the National Code of Conduct.

- (5) An act or omission of a lessee required under a law of the Commonwealth or the State in response to the COVID-19 pandemic—

- (a) is taken not to amount to a breach of a commercial lease, and
- (b) does not constitute grounds for termination of the lease or the taking of any prescribed action by the lessor against the lessee.

- (6) Nothing in this clause prevents a lessor and lessee agreeing to the parties taking any action in relation to the commercial lease (including the lessor taking any prescribed action or the parties agreeing to terminate the commercial lease).

5 Obligation to renegotiate rent and other terms of commercial leases before prescribed action

- (1) A lessor under a commercial lease must not take or continue any prescribed action against an impacted lessee on grounds of a breach of the commercial lease consisting of a failure to pay rent during the prescribed period unless the lessor has complied with this clause.

Note. This clause does not prevent parties to a commercial lease coming to agreements relating to the lease. For example, an impacted lessee may voluntarily agree to pay full rent during the prescribed period. The clause prevents the lessor taking unilateral prescribed action without complying with the requirements set out in subclauses (2)–(4).

- (2) If an impacted lessee is a party to a commercial lease, any party to the lease may request the other parties to renegotiate the rent payable under, and other terms of, the commercial lease.

- (3) A party to a commercial lease must, if requested, renegotiate in good faith the rent payable under, and other terms of, the commercial lease.

- (4) The parties are to renegotiate the rent payable under, and other terms of, the commercial lease having regard to—

- (a) the economic impacts of the COVID-19 pandemic, and
- (b) the leasing principles set out in the National Code of Conduct.

Note. See leasing principles No. 3–5, 7–10 and 12 in the National Code of Conduct. In particular, leasing principle No. 3 in the National Code of Conduct requires landlords to offer rent reductions, in the form of waivers or deferrals of rent, proportionate to lessees' reductions in turnover.

6 Disputes must be submitted to mediation before proceedings can be taken

A lessor must not do any one or more of the following unless and until the Small Business Commissioner has certified in writing that mediation offered

Retail and Other Commercial Leases (COVID-19) Regulation 2020 [NSW]
Schedule 1 Amendment of Conveyancing (General) Regulation 2018

to be conducted by the Small Business Commissioner has failed to resolve the dispute and given reasons for the failure—

- (a) seek to recover possession of premises or land under the commercial lease,
- (b) terminate the commercial lease,
- (c) exercise or enforce any other right of the lessor under the lease.

7 Court consideration of National Code of Conduct leasing principles

A court, when considering whether to make a decision or order relating to any of the following, is to have regard to the leasing principles set out in the National Code of Conduct—

- (a) the recovery of possession of premises or land from a lessee,
- (b) the termination of a commercial lease by a lessor,
- (c) the exercise or enforcement of another right of a lessor of premises or land.

8 Lessor action for non-COVID-19 pandemic related reasons

Nothing in this Schedule prevents a lessor taking a prescribed action on grounds not related to the economic impacts of the COVID-19 pandemic.

Note. For example, a lessor may terminate a commercial lease if the lessee has breached the lease by damaging the premises concerned or may take action if a lessee fails to vacate premises following the expiry of a fixed term commercial lease.

See leasing principle No. 2 in the National Code of Conduct.

9 Equity and law preserved

Nothing in this Schedule excludes the rules of equity and of common law from applying to the determination of a dispute concerning—

- (a) the recovery of possession of premises or land from a lessee, or
- (b) the termination of a commercial lease by a lessor, or
- (c) the exercise or enforcement of another right of a lessor of premises or land.

10 Repeal of Schedule

This Schedule is repealed on the day that is 6 months after the day on which it commences.

Note. Section 87(4) of the *Retail Leases Act 1994* regarding the duration of regulations made under Part 11 (Response to COVID-19 pandemic) of that Act.

Item No: C0620(3) Item 3

Subject: HERITAGE LISTING - 389 ILLAWARRA ROAD, MARRICKVILLE

Prepared By: Leah Chiswick - Executive Strategic Planner

Authorised By: Harjeet Atwal - Senior Manager Planning

RECOMMENDATION

THAT Council:

1. Endorse and forward the planning proposal for 389 Illawarra Road Marrickville for the reasons set out in Attachment 1 to the Department of Planning, Industry and Environment (DPIE) with a request for Gateway determination under section 3.34 of Environmental Planning and Assessment Act 1979;
2. Request delegation of the plan-making functions for this planning proposal to the Chief Executive Officer; and
3. Following receipt of a favourable Gateway Determination, place the planning proposal on public exhibition to comply with the requirements of that Determination as well as Council receiving a post exhibition report for its consideration.

DISCUSSION

Council officers have prepared a planning proposal (**Attachment 1**) seeking amendment of *Marrickville Local Environmental Plan 2011* (MLEP 2011) to list the former Church of Christ at 389 Illawarra Road, Marrickville ('the site') as an item of environmental heritage.

The 2015 *Marrickville Local Government Area Southern Area Heritage Review* recommended the heritage listing of the site. The then Marrickville Council supported the listing and a planning proposal was submitted for Gateway determination. Despite a post-exhibition report (**Attachment 2**) recommending that the listing proceed, Council's Administrator resolved to remove the site from the original planning proposal in response to concerns raised, and to further consider the heritage significance of the property as part of a future heritage review.

On 15 January 2020, an interim heritage order (IHO) was issued for 389 Illawarra Road in response to the imminent threat posed by a development application (DA) seeking demolition of all buildings on the site and construct a 6 storey mixed use development containing ground floor retail tenancies with boarding rooms and short term accommodation dwellings above. The applicant lodged a subsequent deemed refusal appeal to the Land and Environment Court for the DA and a separate appeal has been lodged against the IHO with the Land and Environment Court.

A heritage assessment by Hector Abrahams Architects (**Attachment 3**) established that the church meets the NSW Office of Environment and Heritage's criteria for local heritage significance and recommends listing. The planning proposal is consistent with the recommendation of the heritage assessment that the property be listed. It also aligns with relevant strategic plans, including the Greater Sydney Region Plan, Eastern City District Plan and Council's Local Strategic Planning Statement.

At its meeting of 4 June 2020, the Inner West Local Planning Panel advised Council to approve the planning proposal for submission to the Department of Planning, Industry and

Environment (DPIE) with a request for a Gateway determination. Minutes of the meeting are included as **Attachment 4**.

Council should submit the planning proposal to the DPIE for a Gateway determination.

ATTACHMENTS

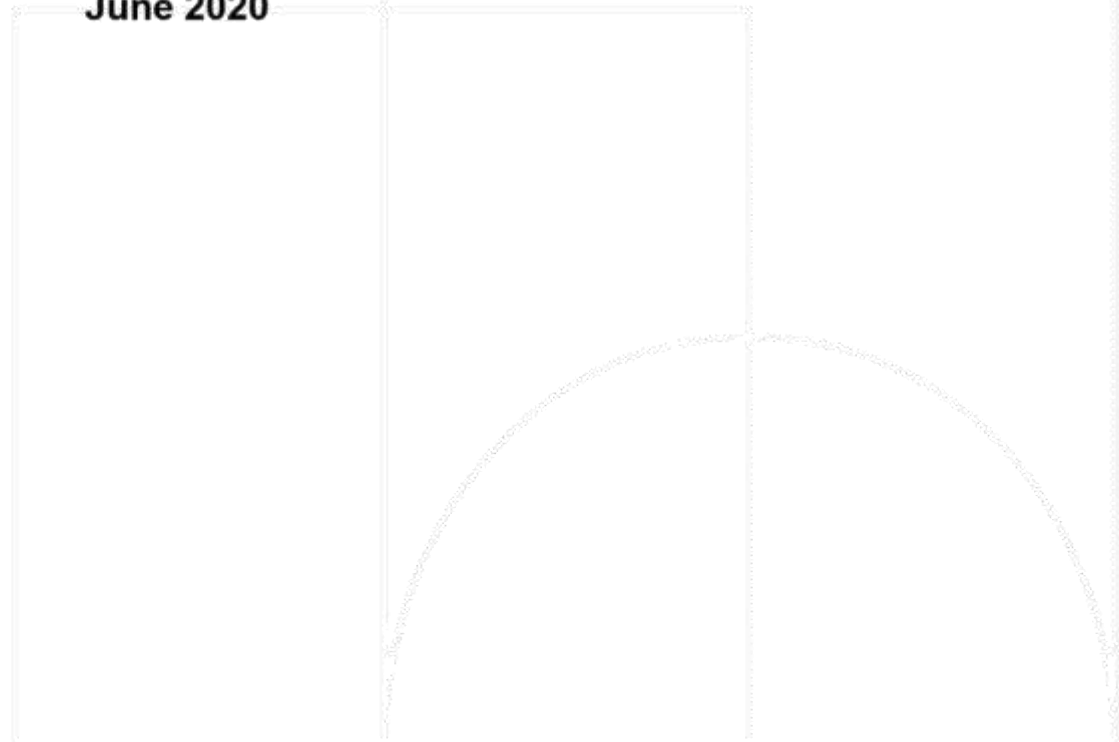
1. [↓](#) Planning Proposal - 389 Illawarra Road, Marrickville
2. [↓](#) Council Report on Marrickville Heritage Review - 26 April 2017
3. [↓](#) Heritage Assessment - Hector Abrahams Architects - 18 May 2020
4. [↓](#) Inner West Local Planning Panel meeting minutes - 4 June 2020



Planning Proposal

389 Illawarra Road, Marrickville

June 2020



Inner West Council
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Executive Summary

This planning proposal explains the intent of, and justification for, a proposed amendment to *Marrickville Local Environmental Plan 2011* (MLEP 2011). The amendment will identify the former Church of Christ and hall at 389 Illawarra Road, Marrickville as a heritage item of local significance.

The property is currently subject to an Interim Heritage Order (IHO) authorised by Council on 13 January 2020 and notified in the Government Gazette of 15 January 2020. An IHO is a temporary measure protecting a potential heritage item from demolition while investigations are carried out to determine its heritage significance.

An experienced heritage consultant was subsequently engaged by Council to undertake a heritage assessment of the property in accordance with NSW Heritage Office guidelines. The assessment concludes that the property at 389 Illawarra Road has heritage significance and merits listing as a local heritage item.

The planning proposal aligns with all relevant strategic plans, including the Greater Sydney Region Plan, Eastern City District Plan and Inner West Council's Local Strategic Planning Statement, Housing Strategy and draft Employment and Retail Lands Strategy.

The planning proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* (the Act) and the Department of Planning, Industry and Environment's documents '*A guide to preparing planning proposals*' and '*A guide to preparing local environmental plans*'.

While the intent is to amend MLEP 2011, the proposal may be executed through an amendment to the impending Inner West Local Environmental Plan. The draft Inner West Local Environmental Plan 2020 seeks to harmonise three environmental planning instruments (Ashfield Local Environmental Plan 2013, Leichhardt Local Environmental Plan 2013 and Marrickville Local Environmental Plan 2011) into a single new LEP for the amalgamated Inner West local government area. The draft LEP was publicly exhibited from 16 March to 24 April 2020 and a post-exhibition report is to be considered by Council at its meeting of 9 June, after which the draft LEP will be submitted to the Department of Planning, Industry & Environment (DPIE) for finalisation.

In the event that the consolidated LEP is published in advance of the subject planning proposal being finalised, the amendment would be incorporated into the Inner West LEP (with MLEP 2011 by then repealed). This would not result in a material change to the amendment.

Background

The *Marrickville Local Government Area Southern Area Heritage Review* was completed in April 2015. The Study Area was the southern portion of the ex-Marrickville LGA, bounded by the Illawarra Line railway to the north, Barwon Park Road to the west, the LGA boundary, Alexandra Canal and the Cooks River to the south, and the Cooks River and Garnet Street to the east. The Study Area encompassed the suburbs of Dulwich Hill (part), Marrickville (part), Tempe, Sydenham and St Peters. The aim of the study was to identify built and landscape items of heritage value, including potential heritage conservation areas, related to European occupation of the area (post-1788).

The Review recommended the listing of 30 potential built heritage items in Schedule 5 of MLEP 2011, including the Church of Christ at 389 Illawarra Road, Marrickville, and provided a draft heritage inventory for the property establishing its significance.

At its meeting of 21 July 2015, Marrickville Council considered a report on the outcomes of three separate heritage projects across the LGA, including the Southern Area Heritage Review. Council resolved to list 71 new heritage items, including 389 Illawarra Road, Marrickville.

A planning proposal was prepared and submitted to the Department of Planning and Environment on 13 October 2015. A Gateway determination was issued on 4 November 2015. The planning proposal was exhibited between 4 July and 25 August 2016, receiving 23 submissions. A post-exhibition report was presented to the Council meeting of 28 February where the Administrator determined that the matter be deferred to allow further consideration of issues raised.

Council's Consultant Heritage Architect subsequently conducted an independent heritage assessment of the property and concluded that it satisfied four of the Heritage Office's criteria for heritage listing, and recommended that the listing proceed. The owner submitted a heritage assessment report contending that the church does not meet any of the criteria for listing.

Despite the Council officer report (report and relevant attachments included as **ATTACHMENT 3**) recommending that Council list 389 Illawarra Road, Marrickville, on 26 April 2017 the Administrator determined that:

1. *Council adopts the recommendations contained within the 28 February 2017 report with the following amendments:*
 - delete 30 Carrington Road, Marrickville from the planning proposal
 - delete 149 Unwins Bridge Road, Tempe from the planning proposal
 - delete 294 Livingstone Road Marrickville from the planning proposal
 - delete 51 Frederick Street St Peters from the planning proposal
 - delete 389 Illawarra Road Marrickville (Church of Christ) from the planning proposal
 - delete 545 Princes Highway and 2 Samuel Street Tempe from the planning proposal; and
2. *any further consideration of these items be carried out as part of a future heritage study.*

Recent background

On 23 August 2019, a development application (DA201900287) was lodged with Council to demolish existing structures and construct a 6 storey mixed use development comprising 2 retail tenancies, 55 boarding rooms and 4 dwellings at 387-389 Illawarra Road, Marrickville.

In response to the imminent threat associated with the DA, Council undertook a preliminary heritage assessment. It concluded that it was likely to be found, on further inquiry or investigation, to be of local heritage significance and recommended that an interim heritage order (IHO), applying to the church and its curtilage, be issued to protect it from potential demolition whilst further assessment of its heritage significance was carried out.

A recommendation was made to Council's Chief Executive Officer that an IHO be placed on the property. The IHO was authorised by Council on 13 January 2020 and notified in the Government Gazette of 15 January 2020. Under the terms of the IHO, it lapses six months from the date that it was made (15 July 2020), unless Council has passed a resolution which seeks to place the item on the heritage schedule a local environmental plan.

Council engaged a heritage consultant (Hector Abrahams Architects) to provide an expert heritage assessment (included as **ATTACHMENT A**). The assessment established that the church meets the NSW Office of Environment and Heritage's criteria for local heritage significance and recommends the property be heritage listed.

The applicant for the DA at 387-389 Illawarra Road, Marrickville made an appeal to the Land and Environment Court against the making of the IHO by Council. On 3 June 2020, the applicant and Council reached an agreement to amend the IHO so that it will lapse upon the occurrence of the earliest of the following:

- i. 8 July 2020, unless Council resolves, before that date, to list the site as an item in the Heritage Schedule to MLEP 2011; or
- ii. The Council resolving not to list the site as an item in the Heritage Schedule to MLEP 2011; or
- iii. Fourteen days after the upholding of the appeal, by the granting of development consent, in proceedings 2019/00320496 (the appeal to the deemed refusal of the development application).

Site Context

Site Description

389 Illawarra Road, Marrickville (the site), shown in Figure 1, is comprised of three lots (Lots 4, 5 and 6 DP 2595) totalling approximately 450 sqm in area, with a frontage and rear boundary of approximately 14.5m. The site is located on the south eastern side of Illawarra Road, at the end of Greenbank Street, and adjoined to the rear by an unnamed lane. It is located approximately 150m from Marrickville Station.



Figure 1: Aerial showing cadastre and location of 389 Illawarra Road, Marrickville (outlined in red)

Located on the site is a free-standing church building "in the Arts and Crafts style with gothic details, constructed of face common brick, with cement rendered bands and a chequerboard render pattern at the apex of the gable wall. The 1940 side entry porch is constructed of red brick. There is a parapet of face brick with rendered coping and a finial at the apex. The roof is covered by glazed terracotta Marseille tiles" (HAA, 2020 p.8).



Figure 2: Church of Christ building viewed from Illawarra Road



Figure 3: The Church of Christ terminates the view looking east along Greenbank Street

Current Planning Controls

The site is zoned B2 Local Centre under MLEP 2011 and has a maximum permissible FSR of 2.5:1 and maximum building height of 20m.



Figure 4: Extract of zoning map of MLEP 2011 (site within red boundary)

The building is not listed as an item of environmental heritage in MLEP 2011, and it is not located within a heritage conservation area. It is, however, identified as a Period Building within the Marrickville Development Control Plan 2011 (MDCP 2011) (refer to Figure 5 below).



Figure 5: Period Buildings Map of MDCP 2011 with the subject site outlined in purple

MDCP 2011 defines Period Buildings as "buildings, not listed as heritage items, which are not located within a heritage conservation area, which are generally intact that make a positive and valuable contribution to the character of the streetscape and broader townscape".

Part 1 – Objectives or intended outcomes

This planning proposal seeks to amend the *Marrickville Local Environmental Plan 2011* (MLEP 2011) to protect the heritage significance of the former Church of Christ and hall at 389 Illawarra Road, Marrickville.

Part 2 – Explanation of provisions

To achieve the intended outcome, this planning proposal seeks to amend the MLEP 2011 to include 389 Illawarra Road, Marrickville (Lots 4, 5 and 6, DP 2595) in Schedule 5 Environmental heritage as an item of local significance and identify the site on the Heritage Map.

It is proposed that the following words will be inserted into Schedule 5 of MLEP 2011, under Part 1 Heritage Items:

Locality	Item name	Address	Property description	Significance	Item no
Marrickville	Church of Christ, including church building, hall, and interiors	389 Illawarra Road	Lots 4, 5 and 6, DP 2595	Local	<i>Item no. to be determined</i>

In the event that the consolidated Inner West LEP is published in advance of the subject planning proposal being finalised, the amendment would be incorporated into the Inner West LEP. This would not alter the intended outcome.

Part 3 – Justification

This section of the planning proposal provides the rational for the amendment to the MLEP 2011 and responds to questions set out in the Department of Planning, Industry and Environment's 'A guide to preparing planning proposals', dated December 2018.

Section A – Need for the planning proposal

Q1. Is the planning proposal a result of an endorsed local strategic planning statement (LSPS), strategic study or report?

The planning proposal is informed by a heritage assessment undertaken by Hector Abrahams Architects which identified the Church of Christ and hall at 389 Illawarra Road, Marrickville as being of local heritage significance (**ATTACHMENT A**). The significance of the property was investigated in response to the imminent threat associated with a development application for demolition of the existing structures and construction of a 6 storey mixed use development comprising 2 retail tenancies, 55 boarding rooms and 4 dwellings.

Council undertook a preliminary heritage assessment, which concluded it was likely to be found, on further inquiry or investigation, to be of local heritage significance. Council subsequently placed an Interim Heritage Order (IHO) on the property which was gazetted on 15 January 2020. Council engaged heritage consultants (Hector Abrahams Architects) to provide an expert heritage assessment.

The heritage assessment contains the following statement of significance:

The Church of Christ at 389 Illawarra Road is a good example of an Arts & Crafts church with Gothic detailing, and one of the foundational denomination churches in Marrickville, dating from the end of an important period in the suburb's development.

It has historical significance in Marrickville as a foundational church in the area, and one of a distinctive group of such churches in the Inner West and for its long association with the Church of Christ.

It has aesthetic significance as a good example of an Arts & Crafts church with Gothic detailing in the area. It has landmark qualities from its siting at the end of Greenbank Street, and also forms part of a group of intact Edwardian buildings which contribute positively to the streetscape along Illawarra Road, together with the neighbouring houses and shop-top buildings.

It has some associative significance with its architect Alfred Gambier Newman. Newman designed a number of significant churches, largely for the Methodist denomination, throughout New South Wales.

The assessment established that the property satisfies the following NSW heritage criteria for local significance:

- Criterion (a) *important in the course, or pattern, of the local area's cultural or natural history*
- Criterion (c) *important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in the local area*
- Criterion (f) *possesses uncommon, rare or endangered aspects of the area's cultural or natural history*
- Criterion (g) *important in demonstrating the principal characteristics of a class of the area's cultural or natural places; or cultural or natural environments*

The planning proposal is consistent with the recommendation of the heritage assessment to list the entire site as a heritage item in MLEP 2011.

This assessment aligns with that conducted in 2015 as part of the *Marrickville Local Government Area Southern Area Heritage Review* which recommended that the property be heritage listed, as well a subsequent independent assessment that concluded the property satisfied four of the Heritage Office's criteria for listing.

The proposal is consistent with IWC's Local Strategic Planning Statement (LSPS) which was adopted by Council on 25 February 2020. This has been discussed further in detail under Q4.

Q2. 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 intended outcome of protecting the heritage significance of the property. The listing of the property in Schedule 5 of MLEP 2011 (or the impending Inner West LEP) is the only way to ensure the heritage significance of the property is conserved. All buildings on the site are proposed for demolition under a current development application lodged in August 2019. This application is now the subject of a deemed refusal appeal to the Land and Environment Court. Without the listing, Council cannot adequately protect the property from demolition.

Section B – Relationship to strategic planning framework

Q3. 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 planning proposal meets the objectives of and gives effect to planning priorities in the Greater Sydney Region Plan (GSRP) 2018 and Eastern City District Plan (ECDP) 2018.

Greater Sydney Region Plan 2018

The Greater Sydney Region Plan is the Greater Sydney Commission's (GSC) vision for a Greater Sydney of three cities, where most residents live within 30 minutes of their jobs and services. It sets a 40-year vision and establishes a 20-year plan to manage growth and change for a Greater Sydney, informing district and local plans and the assessment of planning proposals.

The GSRP contains 10 directions and 40 objectives to guide future growth, covering infrastructure, housing, economic development and sustainability. The planning proposal is consistent with the objectives of the GSRP, in particular:

<p>Direction – A city of great places</p> <p><i>Objective 13: Environmental heritage is identified, conserved and enhanced</i></p>	<p>The planning proposal aims to provide appropriate protection to a building of heritage significance to the Inner West.</p>
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Eastern City District Plan 2018

The Eastern City District Plan (ECDP) is a 20-year plan to manage growth in the context of economic, social and environmental matters along the way to achieve the 40-year vision for Greater Sydney. This planning proposal is consistent with the District Plan and gives effect to the following planning priorities and objectives:

<p><i>Planning Priority E6: Creating and renewing great places and local centres, and respecting the District's heritage</i></p> <p><i>Objective 13 Environmental heritage is identified, conserved and enhanced.</i></p>	<p>This planning priority promotes local heritage as an important component of local identity that creates a distinctive built character. The ECDP states that "identifying, conserving, interpreting and celebrating Greater Sydney's heritage values leads to a better understanding of history and respect for the experiences of diverse communities. Heritage identification, management and interpretation are required so that heritage places and stories can be experienced by current and future generations" (ECDP, p.51).</p> <p>This planning proposal has been informed by an assessment confirming the heritage significance of the former Church of Christ and hall at 389 Illawarra Road, Marrickville. The heritage listing of the property supports Planning Priority E6 of the ECDP.</p>
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Q4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

• **Inner West Local Strategic Planning Statement**

Our Place Inner West – Local Strategic Planning Statement (LSPS), dated 20 March 2020, guides land use planning and development in the area to 2036 and provides the link between the Eastern City District Plan and priorities of Council's Community Strategic Plan. The planning proposal is consistent with Planning Priority 2 of the LSPS as discussed below:

Planning Priority	Consistency
<p>Planning Priority 2 – Plan for high quality, accessible and sustainable housing growth in appropriate locations integrated with infrastructure provision and with respect for place, local character and heritage significance</p> <p>Action 6.2: Continue to protect the heritage and character values of the Inner West by:</p> <ul style="list-style-type: none"> Ensuring significant existing or desired future character is identified and protected through LEP and DCP provisions Undertaking targeted heritage studies to identify new heritage items and conservation areas across the LGA and 	<p>Consistent</p> <p>The intent of the planning proposal is to amend MLEP 2011 to provide statutory protection to a building of local heritage significance.</p>

use these studies to inform future LEP and DCP provisions for their protection

• Inner West Housing Strategy

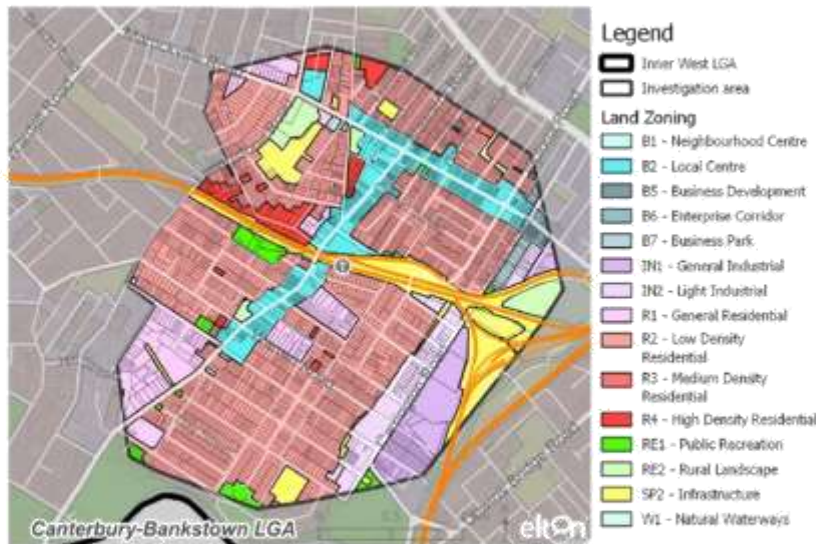
Council's Housing Strategy was adopted in February 2020. It is a high-level strategy providing direction for the provision of housing for the area's growing communities and an evidence-base to inform the Inner West LEP and DCP.

The Inner West's housing vision was developed through consultation undertaken for the Housing Strategy. It highlights the community's aspirations for housing in the LGA over the next 20 years and draws on the community vision in the *Our Inner West 2036 Community Strategic Plan*.

Our Inner West Housing Vision

- *We respect and value the character and heritage of our communities.*
- *We are a network of diverse communities sharing values of inclusiveness, acceptance and fairness.*
- *As neighbourhoods grow and change, people remain easily and freely connected with one another, and have good access to their activities.*
- *'Our Place Inner West' includes quality housing that contributes positively to residents' quality of life and surrounding public spaces.*
- *We support a community that minimises its carbon footprint and protects and supports natural ecosystems.*

The site is located within the Marrickville Station Neighbourhood (refer Figure 6 below) under the Housing Strategy, an area identified as an investigation opportunity from 2019. The Strategy forecasts that the neighbourhood has capacity for approximately 1,113 additional



12

dwelling under the existing planning controls, and additional potential of 390 – 650 dwellings to 2036 (based on the modelling of an upper and lower FSR scenario).

Figure 6: Marrickville Station Neighbourhood

Principle 2 of the Strategy is to *accommodate housing growth through a range of sensitive infill compatible with heritage values and local character – enabling areas to evolve with respect over time.*

The first two actions of Principle 2 are:

- 2A Prepare detailed place-based design controls for the areas identified as ‘from 2019’ and ‘from 2026’
- 2B Continue to identify and conserve items of environmental heritage, and heritage conservation areas

The place-based studies for the investigation areas will refine and test the scenarios of the Strategy, and will be accompanied by heritage studies to identify areas and or sites that warrant heritage protection. Specifically, a key action for the neighbourhood is:

- *Prepare a place-based study for the Marrickville Precinct north and south of the station including assessing some locations for heritage value*

While the Marrickville Station Neighbourhood has been identified as a location for additional dwellings, it is acknowledged that there should be a nuanced approach to housing delivery, which responds to local character and heritage significance.

Estimation of the existing capacity of 1,113 dwellings would have assumed development aligning with the current planning controls. The heritage listing is likely to constrain the floor space achievable on the site, however in the context of the investigation area (over 160 hectares) this will only have a minor impact on the potential floor space yield. The remainder of the precinct provides ample opportunity to accommodate any displaced capacity.

- **Draft Inner West Employment and Retail Lands Strategy**

The draft Inner West Employment and Retail Lands Strategy (EaRLS) provides an evidence based approach to managing employment lands and commercial centres in the LGA. The strategy was exhibited between 23 September 2019 and 27 October 2019.

The Strategy forecasts a shortfall in non-residential floorspace to 2036 in the Marrickville Town Centre. The most likely development outcome in the B2 zone is mixed use, comprising ground floor retail/business premises and residential accommodation above (evidenced by the current DA). An adaptive reuse of the buildings on the site could yield comparable employment floorspace.

The draft Employment and Retail Lands Study acknowledges that future development in centres will need to balance the need for residential dwellings with the supply of retail and office floor space whilst protecting heritage character.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The planning proposal is consistent with all relevant SEPPs and Regional Environmental Plans.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

Consistency with Ministerial Directions is discussed in the table below:

Direction	Consistency/Comment
1. Employment and Resources	
1.1 Business and Industrial Zones	Consistent. The B2 Local Centre zoning and the FSR and building height controls of the site will be retained under the planning proposal. While the heritage listing may impact the yield on the site, it is unlikely to reduce the potential employment and public service floor space. As evidenced by the current DA, the most likely development outcome in the B2 zone is mixed use, comprising ground floor retail/business premises and residential accommodation above. The adaptive reuse of the buildings on the site could provide comparable employment/service floorspace.
1.2 Rural Zones	N/A
1.3 Mining, Petroleum Production and Extractive Industries	N/A
1.4 Oyster Aquaculture	N/A
1.5 Rural Lands	N/A
2. Environment and Heritage	
2.1 Environmental Protection Zones	N/A
2.2 Coastal Protection	N/A
2.3 Heritage Conservation	Consistent The intended outcome of the planning proposal is to protect a property of heritage significance.
2.4 Recreational Vehicle Area	N/A
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	N/A
2.6 Remediation of Contaminated Land	N/A
3. Housing, Infrastructure and Urban Development	

3.1 Residential Zones	Consistent The planning proposal does not alter provisions relating to the delivery and permissibility of housing.
3.2 Caravan Parks and Manufactured Home Estates	N/A
3.3 Home Occupations	N/A
3.4 Integrating Land Use and Transport	N/A
3.5 Development Near Licensed Aerodromes	N/A
3.6 Shooting Ranges	N/A
3.7 Reduction in non-hosted short-term rental accommodation period	N/A
4. Hazard and Risk	
4.1 Acid Sulfate Soil	Consistent MLEP 2011 identifies the subject site as having a probability of containing Class 5 Acid Sulfate Soils, however an intensification of land uses is not proposed.
4.2 Mine Subsidence and Unstable Land	N/A
4.3 Flood Prone Land	N/A
4.4 Planning for Bushfire Protection	N/A
5. Regional Planning	
5.1 Implementation of Regional Strategies	N/A
5.2 Sydney Drinking Water Catchments	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	N/A
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	N/A
5.9 North West Rail Link Corridor Strategy	N/A
5.10 Implementation of Regional Plans	N/A
5.11 Development of Aboriginal Land Council land	N/A
6. Local Plan Making	
6.1 Approval and Referral Requirements	N/A
6.2 Reserving Land for Public Purposes	N/A
6.3 Site Specific Provisions	N/A
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Plan	This direction requires planning proposals to be consistent with A Plan for Growing Sydney. A Plan for Growing Sydney was superseded by the Greater Sydney Region Plan in March 2018.

	The proposal is consistent with the Greater Sydney Region Plan as outlined in response to Q3.
7.2 Implementation of Greater Macarthur Land Release Investigation	N/A
7.3 Parramatta Road Corridor Urban Transformation Strategy	N/A
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	N/A
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N/A
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N/A
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	N/A
7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	N/A
7.9 Implementation of Bayside West Precincts 2036 Plan	N/A
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	N/A

Section C – Environmental, social and economic impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The planning proposal does not seek to facilitate a physical change on the site and as such it will not adversely affect critical habitat or threatened species, populations or ecological communities or their habitats.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The planning proposal relates to heritage listing only. There is no likelihood of any other significant environmental effects.

Q9. Has the planning proposal adequately addressed any social and economic effects?

Identification of the Church of Christ and hall at 389 Illawarra Road, Marrickville as a heritage item provides social benefits by facilitating the conservation of a building that has significance for the local community. No changes to the zoning or permissible uses are proposed.

Heritage listing triggers Clause 5.10 (10) Heritage Incentives which allows Council to permit the use of heritage items for purposes other than those permissible under an LEP subject to certain conditions. This provision provides additional flexibility for the site in terms of future uses.

During the assessment of the current development application, Council officers have encouraged the exploration of redevelopment options incorporating adaptive reuse.

Section D – State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

This planning proposal will not create demand for additional public infrastructure.

Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

The Gateway determination will advise which public authorities should be consulted as part of the planning proposal exhibition process. Any issues raised will be incorporated into this planning proposal following consultation in the public exhibition period.

Part 4 – Mapping

An amended Heritage Map will be prepared to support the exhibition of the proposal following a Gateway decision.

Part 5 – Community consultation

Stakeholder and community consultation will be undertaken in accordance with the legislative requirements, any conditions of a Gateway determination and Council's Community Engagement Framework.

Part 6 – Project timeline

The table below outlines the anticipated project timeline of the planning proposal's progression through the LEP plan making process.

Planning Proposal Stage	Date
Planning proposal to DPIE seeking a Gateway determination	June 2020
Receive Gateway determination	By 15 July 2020
Public exhibition and public authority consultation	August 2020
Review of submissions	September 2020
Post-exhibition report to Council	October 2020
Drafting of instrument and finalisation of mapping	November 2020
LEP made (if delegated)	December 2021
Plan forwarded to DPIE for notification	January 2021

Item No: C0417 Item 4
Subject: SUPPLEMENTARY REPORT: MARRICKVILLE HERITAGE REVIEW
File Ref: 15/5816/22511.17
Prepared By: Maxine Bayley - Strategic Planner
Authorised By: Simon Manoski - Group Manager Strategic Planning

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SUMMARY

Council considered a report on this matter at its 28 February 2017 meeting (included at **ATTACHMENT 1**) and resolved that the matter be deferred for further consultation to be undertaken. In accordance with the resolution, meetings were offered to all objectors who attended the Council Meeting.

Meetings were held with three of the owners who accepted that offer.

All objectors were given until 31 March 2017 to submit additional information for consideration by Council's Heritage Advisor. Additional information received is assessed within this report.

This report addresses the following properties:

- 30 Carrington Road, Marrickville
- 149 Unwins Bridge Road, Tempe
- 294 Livingstone Road, Marrickville
- 51 Frederick Street, St Peters
- 389 Illawarra Road, Marrickville (Church of Christ)
- 545 Princes Highway and 2 Samuel Street Tempe (St Peter's and St Paul's Catholic Church and Presbytery)

This report recommends the following changes to the planning proposal:

- Remove 30 Carrington Road, Marrickville, from the planning proposal
- Defer 149 Unwins Bridge Road, Tempe, from the planning proposal for a detailed heritage assessment (while retaining its draft heritage status)

It is therefore recommended that the following properties be retained within the planning proposal for heritage listing:

- 294 Livingstone Road, Marrickville
- 51 Frederick Street, St Peters
- 389 Illawarra Road, Marrickville (Church of Christ)
- 545 Princes Highway and 2 Samuel Street Tempe (St Peter's and St Paul's Catholic Church and Presbytery)

RECOMMENDATION

THAT:

1. Council adopt the recommendations contained within the 28 February 2017 report with the following amendments:
 - Delete 30 Carrington Road, Marrickville, from the planning proposal
 - Defer 149 Unwins Bridge Road, Tempe, from the planning proposal for further assessment (while retaining its draft heritage status)
2. Council allocate \$5,000 to fund a heritage assessment for 149 Unwins Bridge Road, Tempe

Attachment 2

BACKGROUND

At its Ordinary Meeting of 28 February 2017, Council considered a post exhibition report on the Marrickville Heritage Review and resolved to defer the matter for 'further consideration of issues raised and report back to March 2017 Council Meeting'. In response to the resolution, Council officers undertook a further round of consultation with owners objecting to the proposed heritage listing of their properties. Due to the reporting timeframes, a return report was not able to be prepared for the March Council meeting.

The Marrickville Heritage Review planning proposal process was commenced in July 2015 when the former Marrickville Council resolved to prepare and submit a planning proposal to amend Marrickville Local Environmental Plan (MLEP) 2011 Schedule 5 (Environmental Heritage) Part 1 and Part 2 and the Heritage Map to:

- Add 75 new heritage items;
- Add 2 new heritage conservation areas;
- Amend an existing heritage item listing and description;
- Expand 3 existing heritage conservation areas; and
- Correct various anomalies identified within the heritage schedule of Marrickville Local Environmental Plan 2011.

Following Gateway determination of the planning proposal, community consultation was undertaken. At the conclusion of the formal public exhibition process, individual on-site meetings were offered to all objectors. As part of this process 13 meetings were held with property owners to discuss their property in detail and to enable Council's Heritage Advisor to undertake internal inspections of these properties. A detailed report was then prepared by Council's Heritage Advisor containing recommendations for each disputed heritage listing.

Following Councils' resolution of 28 February 2017 additional consultation has been undertaken with the following property owners or representatives who accepted Council's offer for further consultation:

- 294 Livingstone Road, Marrickville
- 389 Illawarra Road, Marrickville
- 51 Frederick Street, St Peters

Following consideration of the 28 February 2017 meeting, Council's Administrator received representations from St Peter's and St Paul's Catholic Church and Presbytery at 545 Princes Highway and 2 Samuel Street, Tempe. These properties are part of the planning proposal but did not respond to Council's offer of an onsite meeting following the formal consultation period. They also did not attend the Council meeting on 28 February 2017. This property has been included within this report.

All properties submitted additional documentation for Council's consideration.

The concerns of these properties are responded to as follows:

30 Carrington Road, Marrickville



Image 1: 30 Carrington Road, Marrickville

30 Carrington Road forms part of the Carrington Road precinct within the Sydenham to Bankstown urban renewal corridor. Council has met with the site owners and representatives on numerous occasions to discuss a planning proposal for the redevelopment of the area as a mixed-use precinct.

The planning proposal proposes an amendment to an existing heritage listing applying to select property facades and trees along Carrington Road, Marrickville. The MLEP 2011 currently contains the following heritage listing for the Carrington Road precinct:

Property Address	Item Name	Item No.
10 and 47 Carrington Road (facade only)	Carrington Road—Select industrial facades and Canary Island Palms	I68

An independent heritage assessment report prepared Paul Davies included the following recommendations:

- Change the title of the Item Name to *Carrington Road industrial precinct – select industrial facades and street tree plantings of Phoenix Canariensis and Ficus* (or similar title depending on the outcome of the public exhibition process);
- Add the buildings at Nos. 6, 16 & 30 Carrington Road to the precinct heritage listing to be publicly exhibited (the proposed heritage listing for No. 16 is recommended to include the central brick building on the site only); and
- Add to the precinct heritage listing the *Ficus* street trees on the west side of Carrington Road, the Carrington Road end (northern side only) of Renwick Street and the Carrington Road end of Warren Road (south side only) adjacent to No. 49 Carrington Road.

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At the time of public exhibition, Council received submissions on Nos. 6 and 16 Carrington Road, but not in relation to 30 Carrington Road. Council Officers met representatives for Carrington Road in late 2016 who stated they had acquired 30 Carrington Road in the intervening period and were now objecting to its proposed heritage listing.

Council received a heritage assessment report for 30 Carrington Road on 28 February 2017 (see **ATTACHMENT 2**). Council's Heritage Advisor has reviewed the report (which detailed modifications to the building) and concluded *'having regard to the Heritage Council's guidelines (refer "Assessing Heritage Significance," 2001), it has lost its design integrity. For that reason I now consider that 30 Carrington Road should not be listed, or included in the proposed listing.'* A full copy of Council's Heritage Advisor's assessment is included at **ATTACHMENT 3**. Image 2 shows the original building façade, as opposed to the current rendered façade shown in Image 1.



Image 2: Original building facade

The Paul Davies report looked at the history of the Carrington Road precinct in detail. However, it did not provide much detail regarding 30 Carrington Road. For example, the report did not prepare a draft Heritage Inventory Sheet for the property. Rather, it recommended that this property (and others) be added to the existing heritage listing within the MLEP 2011 applying to the facades of 10 and 47 Carrington Road. The heritage assessment submitted by the owners has provided additional information on the property not available within the Paul Davies report. This new information has been considered by Council's Heritage Advisor who has agreed with the conclusion that this building has lost its heritage values. Consequently, it is recommended that 30 Carrington Road, Marrickville, be removed from the planning proposal and not be pursued as a heritage item.

149 Unwins Bridge Road, Tempe



Image 3: 149 Unwins Bridge Road, December 2016

During the public exhibition process, two submissions were received from the property owner. The owner raised issues with the following:

- Lack of information provided about historical information and value of the property.
- The property is no different to others within the area and that the property has been renovated over time but still needs repairs both internally and externally.
- The house has no historical importance nor it is any different to those in the area and, therefore, should not be heritage listed.
- The research undertaken does not provide sufficient information regarding the impact of heritage listing on property owners, for example loss of redevelopment potential.

Council officers met with the property owners in late 2016 to discuss the abovementioned matters. Following the meeting, additional information on the property was sought from the heritage consultants who undertook the original assessment in response to matters raised by Council's Heritage Advisor. A copy of this correspondence is included at **ATTACHMENT 4**.

Following consideration of this and the property owner's comments, a reassessment was undertaken by Council's Heritage Advisor as attached to the 28 February 2017 Council Meeting. This assessment concluded that the property *'has historical significance as, like a handful of others nearby, it was built with stone from a local quarry. The unusual and skillful historic integration of a late Federation façade with a vernacular 19th century sandstone cottages gives it aesthetic significance and it retains research potential'*.

Council's Heritage Advisor assessed the building as meeting four heritage criteria established by the NSW Heritage Office, being historical, aesthetic, technical/research and rarity. It is important to note that only one of the criteria needs to be met in order for a building to meet the threshold for local heritage significance.

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Following the 28 February 2017 Council Meeting, the property owner engaged a heritage consultant to undertake an assessment of the property and requested that the submission period be extended to 17 April 2017. Council officers agreed to this request. On Monday 13 March, Council received notification from the Marrickville Heritage Society that the front façade and side wall to Unwins Bridge Road had been rendered without Development Consent. Council's Heritage Advisor and Team Leader attended the site and took photographs of the changes which are included at **ATTACHMENT 5**. Council's Monitoring Services section and General Counsel have been informed of the modifications and requested to take action as they deem appropriate.



Image 4: 149 Unwins Bridge Road, Tempe, following rendering, March 2017

In light of the changes, Council's acceptance of the proposed 17 April 2017 timeline for submission of their heritage report was rescinded. The property owners were given until 31 March 2017 to submit their information as per the other property owners to enable this report to be considered at the April 2017 Council Meeting.

Council subsequently received a detailed heritage assessment for the property prepared by Heritage Solutions (**ATTACHMENT 6**). The heritage assessment submits that the site is not of heritage significance and raises a number of questions about the level of assessment undertaken by the Paul Davies report and the subsequent conclusions reached within their assessment.

The various heritage reports and information regarding this property highlight the uncertainty regarding certain aspects of this building, for example when it was built and by whom. Both the Paul Davies report and Heritage Solutions report contain certain levels of conjecture regarding these aspects of the site. For example, Paul Davies considers the building likely to have been constructed in 1891 due to information contained within the Sands' Directory. The Heritage Solution report confirms that the actual date of construction is unknown but 'believed to be built after circa 1915'. Overall, there is an overall lack of certainty regarding many aspects of this property, which relate to its overall heritage significance. The Heritage Solutions report is silent on the recent rendering of the property. However, the recent *unauthorised* modifications to the property and the heritage values of the property are interrelated matters. Removing this property from the planning proposal is not recommended for this site as it would allow further modifications to this potential heritage item as exempt development.

Accordingly, given the circumstances applying to the site in respect to its disputed heritage status, coupled with the unauthorised development that has been undertaken, it is recommended that this property be deferred from the planning proposal to enable Council to commission a detailed heritage assessment to consider all of the information obtained on the property to date. Concurrently, Council will be investigating the unauthorised modifications to the property and considering enforcement options. It is recommended that this site retain its status as a draft heritage item to ensure there are no further modifications pending the outcome of the detailed heritage assessment. Deferring 149 Unwins Bridge Road, Tempe, site will allow for the remainder of the planning proposal to proceed to the Department of Planning and Environment (DP&E) for final making and gazettal.

294 Livingstone Road, Marrickville



Image 5: 249 Livingstone Road, Marrickville

Objections from the property owner and representatives predominantly raised concerns with the financial implications of the proposed heritage listing to the resale potential of the property and the additional costs of undertaking maintenance work to the property. The owner is a pensioner and claims he is unable to afford these costs. Representatives for the property owner also claim that the property is already protected under controls within the Marrickville Development Control Plan 2011.

It has been argued that the property is protected via Council's Development Control Plan controls for period buildings and streetscape controls. However, it remains at threat of demolition as a consequence of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, which permits demolition as complying development in certain circumstances. As complying development certificates can be issued by private certifiers, Council would not necessarily be a part of the assessment process. Therefore, the building cannot be considered to be protected under Council's controls unless it is heritage listed within the MLEP 2011.

It is acknowledged that heritage listing can result in additional costs for owners seeking to make changes to their properties. As a pensioner, the owner would automatically be entitled to a 50 percent discount on all applicable fees. As per recommendation 7 of the 28 February 2017 report, it is recommended that a further report be prepared identifying options for financial assistance for heritage property owners.

Further representation from this property was received following its consideration at the 28 February 2017 report as shown at **ATTACHMENT 7**. The advice questioned the proposed heritage listing and the processes undertaken by Council. This advice has been forwarded to Council's Heritage Advisor for comment and a response is included at **ATTACHMENT 8**. Council's Heritage Advisor remains of the opinion that the property should be heritage listed.

Regarding Council's processes for heritage listing, heritage identification and assessment is an ongoing process. Council has undertaken only one comprehensive heritage study which occurred in 1986. A further comprehensive heritage study commenced in the late 1990s but did not proceed to gazettal. Therefore, it should be anticipated that Council will undertake more studies as funding permits to identify other properties requiring heritage protection. It is recommended that 249 Livingstone Road, Marrickville, be retained within the planning proposal for listing as a heritage item.

389 Illawarra Road, Marrickville (Church of Christ)



Image 6: 389 Illawarra Road, Marrickville

The proposed listing relates to the Church of Christ located at 389 Illawarra Road, Marrickville. Council received an objection as part of the initial public exhibition process requesting that Council limit any heritage listing to the front façade of the property only, to allow the church to redevelop the building to accommodate other community uses. Council officers offered an onsite meeting for this property in late 2016 but did not receive a response. Council's Heritage Advisor has reassessed the property and concluded that it meets four of the Heritage Office's criteria for heritage listing, and that the proposed listing for the entire building should proceed.

Additional documentation was tabled at Council's meeting of 28 February 2017. Council's Heritage Advisor met with a Church representative to discuss the matter. At this meeting redevelopment options for the site were discussed. The Church representative also expressed a concern that properties can be heritage listed without owners consent. Council received a heritage assessment report on the site prepared by Archnex Designs.

The assessment report is included at **ATTACHMENT 9**. Council's Heritage Advisor has considered this report and responded to the issues raised in detail as shown in **ATTACHMENT 10**. Council's Heritage Advisor maintains that the property should be heritage listed in the MLEP 2011.

It is important to note that heritage listing within the MLEP 2011 triggers Clause 5.10 (10) Heritage Incentives clause which allows Council to permit heritage items to be used for purposes other than those permissible within the LEP subject to certain conditions. This provision provides additional flexibility for the site in terms of suitable future uses for the site. It is recommended that 389 Illawarra Road, Marrickville, be retained within the planning proposal for listing as a heritage item.

51 Frederick Street, St Peters



Image 7: 51 Frederick Street, St Peters

No. 51 Frederick Street is a purpose built shop premises and dwelling constructed in 1881. The property owner expressed concerns with the proposed heritage listing as they plan to redevelop the site in the longer term. Council's Heritage Advisor and officer met a representative of the property owner on site in late 2016 but were unable to gain access to the property.

Council's Heritage Advisor reassessed the site and concluded that *'the corner shop retains much of its original form and detail, including the shopfront which has had only minor modification'*. It was concluded that the site meets the threshold for three of the Heritage Office's criteria for heritage listing, and that the proposed listing should proceed.

Council officers again met with the property owner following Council's consideration of the post exhibition heritage report on 8 March 2017 and discussed his concerns. The property owner reiterated his objection to the proposed listing and its implications for their plans for redevelop the property.

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He also expressed significant concern with the structural condition of the property and provided officers with documentation showing damage caused by a leaking roof. Cracks in the building façade around the parapet were also shown to the officers. The owner explained that there are significant costs associated with maintaining the premises. Additional information submitted by the owner is shown at [ATTACHMENT 11](#) and [ATTACHMENT 12](#).

Council's Heritage Advisor has reviewed the additional information and provided the following comment:

I think that what the owner thinks is a structural crack across the front is the uneven lower edge of the render where it meets the flashing to the veranda roof. The claimed one inch wide crack at the corner, if it is there, looks like the result of a lintel or arch bar over the front window/door opening rusting and expanding at the bearing point. This is not difficult to remedy. The cost of repairs is of course not relevant to an assessment of significance (though of obvious concern to an owner) but I note there is no actual quote or detail provided.

The owners submission contends that a builder has inspected the site and indicated rectification of the building would cost in the vicinity of \$100,000. Whilst it is acknowledged this is a significant amount of money, it indicates that the building is not beyond repair. Regardless, the condition of the building is not a factor in determining heritage values. Therefore, the conclusion that the site is of heritage value has not been amended by the additional information provided by the property owner.

Consequently, it is recommended that 51 Frederick Street, St Peters, be retained within the planning proposal for listing as a heritage item.

545 Princes Highway and 2 Samuel Street, Tempe (St Peter's and St Paul's Catholic Church and Presbytery)

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Image 8: 545 Princes Highway, Tempe



Image 9: 2 Samuel Street, Tempe

Council received an objection to the proposed heritage listing of these properties in response to the public exhibition of the planning proposal in 2016. The objection stated that the Paul Davies report overvalues the heritage significance of the property and is incomplete due to the declining social significance of the property as the church is only used once a week and the presbytery is unused. Further, that the integrity of the building has been diminished as elements have been removed or modified, including the Princes Highway boundary wall, and that the interior of the buildings have not been investigated.

Following the public exhibition period, Council offered on site meetings with all objectors to enable internal inspections, however did not receive a response regarding this property.

Council received further representations regarding this property objecting to its proposed listing following its consideration of the 28 February 2017 report.

As an objection was received as part of the public exhibition process, this site was reassessed by Council's Heritage Advisor and included in the peer review report considered by Council on 28 February 2017. Council's Heritage Advisor concluded that 'despite the modifications referred to by the objector, the buildings are historically and aesthetically significant, as identified by the Study'. The properties were re-evaluated against the NSW Heritage Office's criteria and found to meet the threshold for historical significance, aesthetic significance and rarity.

The site (comprising both 545 Princes Highway and 2 Samuel Street) are zoned RE2 Private Recreation within the MLEP 2011. This is a relatively limited zoning as only a small range of activities are permissible with consent on the land. Should the properties be heritage listed, Clause 5.10 (10) Heritage Incentives of the MLEP would apply to the site and would allow for the site to be used for purpose other than those permissible within the LEP subject to certain conditions. This additional flexibility may assist the property owners in establishing new uses for the site into the future.

Additional information has been received on the properties which was forwarded to Council's Heritage Advisor for comment as shown at **ATTACHMENT 13**. Council's Heritage Advisor has considered this information and concluded that the church is of historical significance, and that the church and presbytery have aesthetic significance and are rare when considered together. Therefore, it is recommended that the church and presbytery be retained within the planning proposal for listing as a heritage item within the MLEP 2011.

FINANCIAL IMPLICATIONS

The funds required for the heritage review can be funded within existing budgets.

OTHER STAFF COMMENTS

Nil

PUBLIC CONSULTATION

Extensive consultation has occurred regarding the Marrickville heritage planning proposal. Consultation undertaken includes a formal exhibition period, offer of onsite meeting for all objectors and a further consultation period following Council's consideration of a report on the matter on 28 February 2017.

CONCLUSION

This report details additional consultation undertaken in relation to the Marrickville heritage planning proposal in accordance with Council's resolution of 28 February 2017.

It recommends some changes to the planning proposal being the deletion of 30 Carrington Road, Marrickville, and the deferral of 149 Unwins Bridge Road, Tempe, for further heritage assessment.

It is recommended that Council adopt the recommendations in this report and forward the planning proposal to the DP&E for final making and gazettal.

ATTACHMENTS

1. [Download](#) Post Exhibition Report: Marrickville Heritage Review 28 February 2017
2. [Download](#) Submission : 30 Carrington Road, Marrickville
3. [Download](#) Heritage Advisor's Assessment: 30 Carrington Road, Marrickville
4. [Download](#) Additional advice from Paul Davie's Historian: 149 Unwins Bridge Road, Tempe
5. [Download](#) Photos: 149 Unwins Bridge Road, Tempe March 2017
6. [Download](#) Heritage Solutions Heritage Assessment 149 Unwins Bridge Road, Tempe
7. [Download](#) Submission: 294 Livingstone Road, Marrickville
8. [Download](#) Heritage Advisor's Assessment: 294 Livingstone Road, Marrickville
9. [Download](#) Submission: 389 Illawarra Road, Marrickville
10. [Download](#) Heritage Advisor's Assessment: 389 Illawarra Road, Marrickville
11. [Download](#) Submission: 51 Frederick Street, St Peters
12. [Download](#) Additional submission: 51 Frederick Street, St Peters
13. [Download](#) Heritage Advisor's Assessment: 545 Princes Highway and 2 Samuel Street, Tempe

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Attachment 2

Item No:

Subject: POST EXHIBITION REPORT: MARRICKVILLE HERITAGE REVIEW

File Ref: 17/4718/13041.17

Council at its meeting on 28 February 2017 resolved that the matter be deferred to the meeting to be held on 28 March 2017.

Prepared By: Maxine Bayley - Strategic Planner

Authorised By: Simon Manoski - Group Manager Strategic Planning

SUMMARY

Council has concluded community consultation for a planning proposal aimed at strengthening heritage protection within the former Marrickville local government area via the inclusion of 75 new heritage items and 2 new heritage conservation areas; expanding 3 current heritage conservation areas; amending 1 current heritage item; and correcting various anomalies identified within the heritage schedule of Marrickville Local Environmental Plan 2011. Associated amendments were also made to the Marrickville Development Control Plan (MDCP) 2011 to retain consistency between planning documents.

A public exhibition period commenced on 4 July 2016 and concluded on 25 August 2016. Submissions were received objecting to 23 of the proposed heritage listings contained within the planning proposal. The objections included pro-forma letters signed by multiple signatories and multiple submissions relating to the same property. A number of submissions were also received either supporting the planning proposal or raising concerns with a perceived loss of heritage within the local government area. All submissions raising heritage concerns were referred to Council's Heritage Consultant for review. As a result of the submissions received, additional consultation was offered to property owners objecting to their proposed heritage listing via onsite meetings. 13 meetings were held with property owners to discuss their property in detail and to enable Council's Heritage Consultant to undertake internal inspections of these properties. A detailed report has been prepared by Council's Heritage Consultant containing recommendations for each disputed heritage listing. The report is included at **ATTACHMENT 1**.

This report predominantly addresses properties which were the subject of objections to the proposed heritage listing. Unless otherwise discussed, all other properties included within the original planning proposal which were not the subject of an objection have been retained and are recommended for heritage listing. It is recommended that Council forward the planning proposal request to the Department of Planning & Environment for gazettal, subject to the amendments identified in Table 2 of this report. It is further recommended that Council adopt the exhibited amendments to the MDCP 2011 as amended by the recommendations within this report.

RECOMMENDATION

THAT Council:

1. Receive and note this report;
2. Proceed with the heritage listing of properties contained within Table 1 of this report;
3. Not proceed with the heritage listing of properties contained within Table 2 of this report;
4. Adopt the exhibited amendments to Marrickville Development Control Plan (MDCP) 2011 including the additional amendment identified in this report;
5. Forward the proposed revised amendments to MLEP 2011 to the Department of

-
- Planning & Environment with a request that the Minister make the plan;
6. Place a notice in local newspapers when the amendments to MLEP 2011 are gazetted advising that it has come into force, and that the MDCP 2011 amendments will come into force at a date specified in the notice;
 7. Consider options to provide financial support to the owners of heritage properties as part of a future report;
 8. Consider a further report outlining options for the development of a Significant Tree Register for the Inner West Council area;
 9. Consider options for the identification, heritage assessment and management of public domain assets, including sandstone and brick kerb and guttering for the Inner West Council area as part of a future report; and
 10. Delay the assessment of identified potential heritage items, heritage conservation areas and additional heritage studies until the structure and resources for heritage management in the new organisation are established.
-

BACKGROUND

At its meeting of 21 July 2015 the former Marrickville Council resolved, inter alia, to prepare and submit a planning proposal to amend Marrickville LEP 2011 Schedule 5 (Environmental Heritage) Part 1 and Part 2 and the Heritage Map to:

- Add 75 new heritage items;
- Add 2 new heritage conservation areas;
- Amend an existing heritage item listing and description;
- Expand 3 existing heritage conservation areas; and
- Correct various anomalies identified within the heritage schedule of Marrickville Local Environmental Plan 2011.

The contents of the planning proposal and MDCP 2011 amendment were derived from various heritage projects as follows:

- A heritage review of southern sections of the Marrickville local government area (defined as areas south of the Illawarra/Bankstown railway line) for potential Heritage Items (including proposed items list provided by Council) and Heritage Conservation Areas, for inclusion within Marrickville Local Environmental Plan 2011;
- A contributory building assessment & mapping exercise for 6 select Commercial Centres, for inclusion within Marrickville Development Control Plan 2011;
- A heritage assessment of 3 potential Heritage Items (1 individual building and 2 groups of buildings) for potential listing as Heritage Items or Heritage Conservation Areas (either as new Heritage Conservation Areas or expansion of existing Heritage Conservation Areas) within MLEP 2011;
- Heritage assessment of 6 Livingstone Road, Petersham, known as the 'Beynon and Hayward' building;
- Heritage assessment of the "I Have a Dream" mural located on the eastern wall of No. 305 King Street, Newtown;
- Listing of early and rare example of an internal mural depicting historical events and believed to be sourced directly from cartoons appearing in newspapers and the Bulletin Magazine at 36 Terminus Street, Petersham; and
- Identified errors and anomalies within MLEP 2011 Schedule 5 Parts 1 and 2 and the Heritage Map.

A conditional Gateway Determination for the planning proposal was issued by the Department of Planning & Environment (DP&E) in November 2015. The Gateway Determination specified the planning proposal was required to be publicly exhibited for a minimum of 28 days in accordance with the requirements of its document *A Guide to Preparing LEPs (Planning &*

Infrastructure 2013), and that the LEP be completed within 12 months of the Gateway Determination. Council was not issued delegation in relation to the planning proposal. Upon request, to allow for additional public consultation, the completion date for the planning proposal set by the Gateway determination was extended to 1 June 2017.

The Gateway Determination also specified amendments required to the planning proposal prior to its public exhibition, including consultation with the Office of Environment and Heritage which subsequently raised no objections with the contents of the planning proposal. Subsequently, the amended planning proposal document and all supporting studies and maps were publicly exhibited between 4 July and 4 August 2016. Additional time was requested by several property owners and the exhibition closing date was extended to 25 August 2016. Upon request, a group of landowners from 2-12 Warburton Street, Marrickville, were given until 8 September 2016 to submit their response in order for them to engage a professional consultant.

Public Exhibition

All landowners were notified by letter of the planning proposal public exhibition. The notification included:

- Individually tailored information sheets on each proposed heritage listing.
- A 'Question and Answers' document developed in conjunction with Council's Corporate Strategy and Communications section.
- A dedicated 'Your Say Inner West Council' page was developed for the public exhibition which explained the contents of the planning proposal.
- Links to all relevant heritage studies, individual heritage inventory sheets, previous Council reports, copies of proposed DCP amendments, current and proposed LEP heritage maps and an information document prepared by the Heritage Council of NSW explaining heritage listings.

In response to the public exhibition, objections were received to 23 of the proposed heritage listings. These included internal objections from Council's Investigation and Design Team. Council also received feedback from property owners who submitted that heritage listing is punitive, particularly financially. For example, fees are applicable for minor works applications for works that would be exempt development if the property were not heritage listed. Conversely, there is little support for owners of heritage properties, despite the retention of these properties benefitting the wider community. As a consequence, a number of property owners expressed significant opposition to the proposed heritage listings.

The nature of heritage listing is it creates a community benefit which disproportionality burdens individual property owners. Heritage identification and protection is one of the roles of Council and the perceived loss of local heritage has for many years been identified as a key concern to the wider community.

The development of a new, larger organisation in the form of the Inner West Council provides an opportunity to explore options for Council to provide greater support to heritage property owners. Accordingly, this report recommends that a further report be prepared at an appropriate time examining these opportunities.

On-site Consultation

Council's Heritage Consultant was engaged to undertake a review of the submissions received raising objections to the proposed heritage listings. Council's Heritage Consultant was not involved in the initial stages of the project and was engaged to undertake an independent heritage review of all disputed listings.

Following consideration of the submissions, additional consultation in the form of onsite meetings was considered appropriate to address concerns raised and to allow Council's Heritage Consultant internal access to properties. All property owners who objected to the proposed heritage listing of their property were invited to take part in this process. Meetings with 13 property owners or representatives concluded on 22 December 2016. On site meetings were held at the following properties:

- 6 Lymerston Street, Tempe
- 48 & 50 Frederick Street, Sydenham
- 149 Unwins Bridge Road, Tempe
- 50 & 52 Warren Road, Marrickville
- 51 Frederick Street, St Peters
- 8 Warren Road, Marrickville
- 20 Canal Road, St Peters (Cocks River Container Terminal)
- 294 Livingstone Road, Marrickville
- 6 Tramway Street, Tempe
- 40 Excelsior Parade, Marrickville
- 17 Railway Terrace, Lewisham
- 231A Wardell Road, Dulwich Hill

Additionally, a meeting at Council's Petersham Administration Centre was held with representatives from the Carrington Road precinct, Marrickville.

A detailed report responding to all submissions raising heritage objections has been prepared by Council's Heritage Consultant and is included at **ATTACHMENT 1** to this report. Although it mainly deals with heritage matters, it also addresses non-heritage objections such as cost burdens and loss of development potential.

Recommendations

Table 1 below includes all properties recommended to remain with the planning proposal and proceed as heritage items. A full assessment of each property is included in **ATTACHMENT 1** to this report.

Item 4

TABLE 1: Disputed properties recommended to be retained within the planning proposal and to be listed as heritage items and/or heritage conservation areas

Property Address	Item Name	Ref. No.
545 Princes Highway & 2 Samuel Street, Tempe	St Peter's and St Paul's Catholic Church and Presbytery	22
149 Unwins Bridge Road, Tempe	Skelton - Quarryman's cottage	14
40 Excelsior Parade, Marrickville	Calthorpe - Victorian filigree style villa	31
91 Camden Street, Enmore	HCA 18 - Camden Street & James Street Heritage Conservation Area (Enmore)	8
36 Terminus Street, Petersham	Cartoon mural	34
51 Frederick Street, St Peters	Shop	43
294 Livingstone Road, Marrickville	Roseen-Dhu - detached house	29
31-33 Cook Street, Tempe	Pair of sandstone semi-detached houses	3
47 Hart Street, Tempe	Former Methodist Chapel	44
47 Lackey Street, St Peters	HCA 37 - Lackey Street/Simpson Park (St Peters)	6
6, 8 & 10 Warren Road, Marrickville	Group of three Victorian Italianate style villas	23
231A Wardell Road, Dulwich Hill	HCA 29 - Expansion to South Dulwich Hill Heritage Conservation Area	41
75 Beauchamp Street, Marrickville	Heatherbrae - Victorian Filigree style house	18
6 Tramway Street, Tempe	WWI War Widows' houses - No. 4 (Pozières), No. 6 (Coramie), No. 8 (Messines)	20
6 Lymerton Street	Glenora - Victorian Italianate style villa	24
399 Illawarra Road, Marrickville	Church of Christ	15
17 Railway Terrace, Lewisham	Two-storey Federation Queen Anne style residence (Heritage Item and inclusion within HCA 26)	30
16 Carrington Road, Marrickville	Inter-war factory building	42
30 Carrington Road, Marrickville	Inter-war factory building	42
Cooks River Container Terminal	Electric Overhead Travelling Crane, Lay Down Points Lever, McS H T Administration Building, Pre Cast Concrete Hut 1, Pre Cast Concrete Hut 2	29 & 37

Item 3

Attachment 2

Attachment 1

TABLE 2: Disputed properties recommended to be removed from the planning proposal and not be listed as heritage items and/or heritage conservation areas

Property Address	Item Name	Ref. No.
50 & 52 Warren Road, Marrickville	Pair of inter war Art Deco style residential flat buildings	33
48 & 50 Frederick Street, St Peters	Corner Shop & Residence	35
2-12 Warburton Street, Marrickville	Group of three pairs of Federation Queen Anne style semi-detached houses	46
6 Carrington Road, Marrickville	Name	42
Carrington Road (western side of Carrington Road, northern side of Renwick Street and southern side of Warren Road adjacent to no. 49 Carrington Road), Marrickville	Ficus street trees	42
Various	Street trees	26
Various	Sandstone and brick kerb and guttering	32

OTHER RECOMMENDATIONS

50 & 52 Warren Road, Marrickville

Council's Heritage Consultant has identified issues with the level of evidence provided to support the assessment of these properties as being historically significant. The physical evidence these buildings demonstrate may indicate a historic trend of converting Victorian villas into residential flat buildings during the Inter-War period. Other examples of this type of modification are evident within the former Marrickville local government area. However, as research into this process has not been undertaken it is recommended these properties be removed from the planning proposal at this time.

It is recommended that Council consider undertaking a review of historic conversions of dwelling houses into residential flat buildings to determine the historical significance of these buildings as part of future heritage work.

6, 16, 30 & Ficus Street trees, Carrington Road, Marrickville

The planning proposal included an amendment to an existing heritage listing applying to select property facades and trees along Carrington Road, Marrickville. The MLEP 2011 currently contains the following heritage listing for the Carrington Road precinct:

Property Address	Item Name	Item No.
10 and 47 Carrington Road (facade only)	Carrington Road—Select industrial facades and Canary Island Palms	168

The Paul Davies Southern Areas Report undertook further research of the Carrington Road area and made the following recommendations:

- Change the title of the Item Name to *Carrington Road industrial precinct – select industrial facades and street tree plantings of Phoenix Canariensis and Ficus* (or similar title depending on the outcome of the public exhibition process);
- Add the buildings at Nos. 6, 16 & 30 Carrington Road to the precinct heritage listing to be publicly exhibited (the proposed heritage listing for No. 16 is recommended to include the central brick building on the site only); and
- Add to the precinct heritage listing to be publicly exhibited the *Ficus* street trees on the west side of Carrington Road, the Carrington Road end (northern side only) of Renwick Street and the Carrington Road end of Warren Road (south side only) adjacent to No. 49 Carrington Road.

Council received an objection from Mecone Pty Ltd on behalf of the landowners (Mirvac) specifically objecting to the inclusion of Nos. 6 and 16 as part of the existing heritage listing. Significant supporting documentation was included regarding the relationship between Nos. 6 and 16 to the historical automotive use of the area. Council staff met with representatives from Mecone and Mirvac regarding the proposed listing and its relationship with a forthcoming planning proposal for the Carrington Road area.

Council's Heritage Consultant has agreed that No. 6 Carrington Road should not be included within the heritage listing as the objection has adequately established that it was never part of the General Motors plant at No. 10 Carrington Road. However, Council's Heritage Consultant does not concur that No. 16 should not be listed and has concluded that the building is important in the area's history, is aesthetically distinctive and reasonably intact, and hence satisfies the criteria for heritage listing.

No specific objection was received in relation to No. 30 Carrington Road, though at the recent meeting it was stated that the site had recently been acquired to form part of a planning proposal. In relation to this site, Council's Heritage Consultant has reviewed the property and concluded it meets the threshold for heritage listing.

The identified street trees have not been assessed for heritage significance within the Paul Davies report. Consequently, they have been removed as potential heritage items and added to Council's list of potential heritage items for assessment at a later stage.

The Paul Davies report recommended that the additional items be added to the existing heritage listing. However, Council's Heritage Consultant has raised concerns with the nature of the current listing being for building facades only. Council's Heritage Consultant has recommended that the existing listing be expanded to include the entire buildings. However, as proposed change is outside the scope of the current process, it is recommended this be considered as part of a future heritage study.

Council's Heritage Consultant has also raised issue with the current listing containing several buildings and trees on separate, unconnected lots and considers they should be listed separately. Consequently, the recommendation is to list Nos. 16 and 30 as separate items, rather than as an amendment to the current listing. Separate Heritage Inventory Sheets will need to be developed for both Nos. 16 & 30 Carrington Road, containing Statements of Significance for each item which can be completed in-house.

Cooks River Container Terminal

Council received an objection from NSW Ports which manages the Cooks River Container Terminal site under a 99-year lease granted by the NSW Government. The site is occupied and operated by Maritime Container Services (MCS) under the oversight of NSW Ports. The objection raised concerns with the potential for the proposed heritage listing to significantly and unreasonably impact upon operations at the site, which are of State wide importance. The

entire site, as well as select individual components, are listed on the s.170 Register under the Heritage Act 1977.

Council officers met with representatives from MCS on 1 December 2016. It was agreed that the intent of the listing is not to compromise the operation of the site, but rather to ensure that Council is advised of works to significant heritage elements. An agreed position was reached where the significant elements on the site are to be mapped on the Heritage Map, with a reasonable curtilage applied to each element. The listing would therefore be limited to significant elements of the site, rather than applying to the site in its entirety. Following the meeting, MCS engaged heritage consultants to define suitable curtilage to individual elements which has been submitted to Council and approved by Council's Heritage Consultant. The description in the LEP will specify which parts of the site are included within the listing to differentiate them from the site as a whole.

28-44 & 82 Campbell Street, St Peters

These 10 residential properties have been included for acquisition and demolition as part of the WestConnex roadway project, despite the proposed listing of these buildings as heritage items within the MLEP 2011 and their inclusion within the s.170 Register maintained by the RMS. These building have been assessed as having heritage significance; however their demolition for the project is imminent.

Consequently, it is recommended that these building be removed from the planning proposal. Retaining demolished buildings within the heritage schedule is considered unnecessary and impractical from a management perspective and in the event that the buildings are not demolished their listing could be revisited.

204 Unwins Bridge Road, Sydenham

During the course of the public exhibition it was noted that the proposed heritage items at 204 Unwin Bridge Road, Sydenham, is already a listed heritage item within the MLEP 2011. As this building is already a listed heritage item, it has been removed from the planning proposal.

Brick and Sandstone Kerb and Guttering

These public domain elements were identified within the Paul Davies Southern Areas assessment. Currently, select areas of sandstone and brick kerb and guttering (and footpaths) are heritage listed, but the listings are not comprehensive across either the former Marrickville LGA or the wider Inner West LGA.

Concerns were raised by Council's Infrastructure Planning & Property Services section regarding the implications of the heritage listing to the ongoing maintenance and management of these assets. Should the listing proceed, individual development applications (or minor works applications) would be required which would impede the works program and create additional costs which is considered not to be in the public interest.

The submission claims Council requires a more holistic and pragmatic review considering other factors such as street context and the surrounding built form in assessing the heritage value of kerbs and guttering. This review should consider all public assets that are potential heritage items in a holistic manner and document how best to manage these in a sustainable way.

The Paul Davies report recommended the following in relation to sandstone and brick kerb and guttering:

- Council review the extent and integrity of the sandstone and brick kerbing in the identified streets, mapping the extent and location of the sandstone and brick kerbing in these streets;
- Council develop a management strategy for historic sandstone and brick kerbing within the Marrickville LGA. For example, one management approach is that in streets where such historic kerbing is fragmentary (which will be apparent from the mapping), the kerbing could be allowed to be removed from these streets in order to repair the historic kerbing in streets with more extensive and intact historic kerbing; and
- Based on the mapping information for historic sandstone and brick kerbing, Council consider heritage listing, and reviewing existing heritage listings, to cover all extensive intact runs of sandstone and brick kerbing in particular streets (not remnants).

The Paul Davies study was limited to the southern section of the former Marrickville local government area. However, it is acknowledged that sandstone and brick are prominent building materials and their use is widespread throughout the Sydney area, in both the public and private domain. Whilst the study identifies a small range of the existing sandstone and brick kerb and guttering in the public domain, it is not a comprehensive assessment.

It is agreed that a holistic approach to the management of these public domain assets is required. It is recommended that Council review existing heritage listings in the public domain and develop a draft management strategy to be reported back to Council. The strategy should consider options such as targeting extensive runs of intact sandstone and brick kerbing for heritage listing.

Street Trees

A number of street trees were identified within the Paul Davies Southern Areas report and recommended for further assessment and potential heritage listing. Council received an objection from its Tree Management Services section on the basis that the trees are protected at present under the MLEP 2011 under Clause 5.9 and are managed in accordance with Council's tree management policies.

The submission suggested that if there is a need to record the heritage value of these trees, it should be done as part of a Register of Significant Trees that would form part of Council's Tree Management suite of strategic documents and sit alongside Council's Street Tree Master Plan and Urban Forest Strategy. Locations where inroad tree planting treatments currently exist and are considered worthy of further assessment for inclusion on a Register of Significant Trees or the LEP was included as follows:

Address	Street Tree Master Plan Precinct
Canonbury Grove, Dulwich Hill	1. Dulwich Hill East
Durham Street, Dulwich Hill	1. Dulwich Hill East
Ness Avenue, Dulwich Hill	1. Dulwich Hill East
Williams Parade, Dulwich Hill	2. Dulwich Hill West
David Street, Marrickville	4. Marrickville Central
Harney Street, Marrickville	4. Marrickville Central
Marrickville Avenue, Marrickville	4. Marrickville Central
Northcote Street, Marrickville	4. Marrickville Central
Robert Street, Marrickville	4. Marrickville Central
Woodcourt Street, Marrickville	4. Marrickville Central
Graham Avenue, Marrickville	5. Marrickville Central

Frampton Ave, Marrickville	5. Marrickville Industrial
Juliett Street, Marrickville	5. Marrickville Industrial
Victoria Rd (east of Juliett St)	5. Marrickville Industrial
Ewart Street, Marrickville	6. Marrickville South
Excelsior Parade, Marrickville	6. Marrickville South
Harnett Avenue, Marrickville	6. Marrickville South
Kays Avenue East, Marrickville	6. Marrickville South
Osgood Avenue, Marrickville	6. Marrickville South
Warburton Street, Marrickville	6. Marrickville South
Marrion Street, Camperdown	7. Newtown North & Camperdown
Charles Street, Enmore	8. Newtown South & Enmore
Juliett Street, Marrickville	8. Newtown South & Enmore
Liberty Street, Newtown	8. Newtown South & Enmore
Metropolitan Road, Newtown	8. Newtown South & Enmore
Pemell Street, Newtown	8. Newtown South & Enmore
Goodsell Street, St Peters	11. Sydenham & St Peters
Griffiths Street, Tempe	12. Tempe
John Street, Tempe	12. Tempe
William Street, Tempe	12. Tempe

The Paul Davies report recommends the following actions in relation to the identified trees:

- The potential heritage items...be added as heritage items to Schedule 5: Environmental Heritage of the Marrickville LEP 2001, following preparation of State Heritage Inventory (SHI) forms for each item for public exhibition of the LEP amendment; and

The street trees identified in the Paul Davies report have not undergone a heritage assessment process which satisfies the requirement of the NSW Office of Environment & Heritage. Consequently, Heritage Inventory sheets have not been prepared as part of this planning proposal process. Therefore, it is recommended that they be removed from this planning proposal.

As noted above, Council's Tree Management Services have raised concerns that their management and maintenance of heritage listed trees would necessitate the lodgement of development applications, which would add an unsustainable burden to their workload. This concern is noted and, although works could be applied for via a minor works application, it is acknowledged heritage listing these trees would necessitate the lodgement of numerous applications. They have also noted that the list of trees identified is not exhaustive and misses other potentially significant trees. This is due to the relatively constrained parameters of the study area and budget.

The submission from Council's Tree Management Services suggested the establishment of a Register of Significant Trees, which would form part of Council's Tree Management suite of strategic documents and sit alongside Council's current Street Tree Master Plan and Urban Forest Strategy. Several other Councils, including the City of Sydney, Strathfield and Randwick operate Registers of Significant Trees. These generally operate using an

assessment methodology for determining the significant trees is based on criteria developed by the NSW Heritage Office, in accordance with the Burra Charter. The assessment criteria used in these registers is based on the following five basic categories in the assessment criteria:

1. Outstanding Visual or Aesthetic Significance
2. Botanic or Scientific Significance
3. Significant Ecological Value
4. Historical and Commemorative Significance
5. Social Significance

This approach to significant tree identification, assessment and management should be investigated by Council for the Inner West local government area. Works proposed to trees which are included on the register would be discussed with Council's Heritage Advisor prior to their undertaking. Management policies can be developed in conjunction with the Register of Significant Trees.

It is recommended that the street trees identified within the planning proposal be removed and that Council investigates options for the development of a Register of Significant Trees to identify, assess and manage important landscape elements within the Inner West local government area. This document can be added to the existing suite of Tree Management documents and strategies.

Additional Matters

Heritage item name and description amendments

Council received advice that the Inventory Sheet for 94 Renwick Street, Marrickville, included the incorrect property name. It is recommended the sheet be amended to read 'Sarnia House' and that the date of construction be amended to read 1881.

Building interiors

As part of Amendment 1 to MLEP 2011, Council amended all existing heritage item descriptions to include the words 'including interiors'. This was based on legal advice which claimed there was 'potential for internal alterations to heritage items to be allowed without the need for consent...' due to the wording of Clause 5.10 *Heritage Conservation* in MLEP 2011. Accordingly, it is recommended that all heritage items progressed as a part of the planning proposal have the words 'including interiors' included within the Item Name within Schedule 5 of the MLEP 2011 for buildings. This does not include the proposed listing for 36 Terminus Street, Petersham, which already lists only the interior of the building.

Additional heritage assessments

The heritage studies completed by Paul Davies both identified a number of additional potential heritage items and heritage conservation areas within the former Marrickville local government area. Additionally, internal processes continue to identify buildings considered worthy of further review and assessment.

Currently, the structure of the new Inner West Council is being established. As stated earlier, heritage management will form part of the considerations in establishing the structure for the composite Inner West Council. Until the organisational structure is established, allocating funds to additional heritage projects is premature. However, the need for additional heritage studies, funding and overall management structure needs to form part of discussions regarding the future operations of the Inner West Council entity.

Once the structure has been established, further work can be undertaken on matters identified within this report including management of sandstone and brick kerb and guttering, investigating the establishment of a Significant Tree Register, reviewing heritage listing applying to facades only, and providing greater assistance to heritage property owners.

MDCP 2011 amendments

No submissions were received in relation to the proposed DCP amendments. Two minor changes to Part 5 (Commercial and Mixed Use Development) and Part 8 (Heritage) are recommended as follows:

- One minor change is recommended to Part 8 (Heritage) of the MDCP 2011. The document currently states:

Part 8 applies to heritage items, heritage conservation areas (HCAs), archaeological sites and Aboriginal heritage. (p. 1).

It is recommended that 'period building' be added to this sentence to ensure that it accurately reflects the full scope of this chapter.

- The draft amendments to MDCP 2011 Part 5 (Commercial and Mixed Use Development) contain the same heading twice. To rectify this duplication it is recommended that Section 5.1.2 be amended to:

5.1.1 Contributory and Period Buildings in Commercial Centres

Requirements for buildings over 50 years old

Council resolved at its meeting of 21 July 2015 to 'Consider options for the assessment of proposed heritage items contained in Attachment 6 and a policy to request Statement of Heritage Impact and/or archaeological assessment report before granting consent for substantial demolition of a period building within a commercial centre which is over 50 years old as part of a forthcoming report to Council on heritage management options'.

The abovementioned recommendation was contained within the Paul Davies report 'Contributory and Period Building Assessment and Mapping Project for 6 Select Commercial Centres' which was undertaken by Paul Davies in 2014. The report identified a number of commercial buildings which had newer facades, potentially visually obscuring the age of the original building. The report attempted to address this situation through recommending the development of a policy for Council to request a Statement of Heritage Impact and/or archaeological assessment report before granting consent for substantial demolition of a period building within a commercial centre which is over 50 years old.

Contributory and Period buildings are defined within the MDCP 2011 as follows:

Contributory buildings are buildings, not listed as heritage items, that are located within a heritage conservation area that make an important and significant contribution to the character and significance of that heritage conservation area. They are buildings that have a reasonable to high degree of integrity and date from a key development period of significance of the heritage conservation area. Contributory buildings are buildings from a key period of development that are either:

- highly or substantially intact; or
- altered, yet recognisable.

Period buildings are buildings, not listed as heritage items, which are not located within a heritage conservation area, which are generally intact that make a positive and valuable contribution to the character of the streetscape and broader townscape.

Contributory and period buildings are mapped and planning controls are contained within MDCP 2011 Part 8 (Heritage) and referenced within Part 5 (Commercial and Mixed Use Development). One of the publicly exhibited amendments to the MDCP 2011 inserted the following words within Part 8 of MDCP 2011:

Council may request an assessment by a suitably qualified heritage consultant of the heritage and/or architectural significance of identified period buildings within commercial centres as part of development proposals for total or substantial demolition.

It is considered that the development controls contained within Part 5 and Part 8 of the MDCP 2011 already afford considerable protection for proposed changes to both contributory and period buildings. This new inclusion seeks to strengthen these protections by allowing Council discretion to request these studies based on a merit assessment. It is considered that this inclusion responds to the recommendation within the Paul Davies report.

Supplementary Information

At the Local Representation Advisory Committees (LRAC) Meeting on 14 February 2017 there was discussion as part of [Item 3 - Post Exhibition Report: Marrickville Heritage Review](#) concerning No's 28-44 & 82 Campbell Street, St Peters. The report recommended that the heritage listing of these properties not proceed on the basis of their imminent demolition for Stage 2 of WestConnex (New M5). As part of the discussion it was submitted that these properties had been demolished that day. Notwithstanding, the LRAC resolved to include these items as part of the draft MLEP 2011 amendment.

Council officers have sought subsequent advice from the project team responsible for the New M5 concerning the status of these properties and have been advised that the buildings were 'in the process of being demolished' as of 15 February 2017.

FINANCIAL IMPLICATIONS

Nil at this stage. Further heritage projects identified through this process are recommended to proceed at a later stage once the structure and related budgets for the Inner West Council are finalised.

OTHER STAFF COMMENTS

Comments from Council's Investigation and Design Team were sought and have been addressed in this report.

PUBLIC CONSULTATION

The planning proposal was publicly exhibited between 4 July and 25 August 2016. All landowners were notified by letter of the planning proposal public exhibition. The notification included:

- Individually tailored information sheets on each proposed heritage listing.
- A 'Question and Answers' document developed in conjunction with Council's Corporate Strategy and Communications section.
- A dedicated 'Your Say Inner West Council' page was developed for the public exhibition which explained the contents of the planning proposal.
- Links to all relevant heritage studies, individual heritage inventory sheets, previous Council reports, copies of proposed DCP amendments, current and proposed LEP

heritage maps and an information document prepared by the Heritage Council of NSW explaining heritage listings.

Following consideration of submissions received, on-site meetings were offered to property owners expressing objection proposed heritage listing for their properties. 13 meetings were held between November and December 2016. A detailed report has been developed in response to objections received and each property reassessed by Council's Heritage Consultant.

CONCLUSION

Council has concluded a consultation process for a planning proposal aimed at protecting heritage within the former Marrickville local government area. Consultation included a formal exhibition period and on-site meetings upon request. To respond to the objections received, Council engaged its Heritage Consultant to undertake an independent heritage review. A detailed report was developed including a heritage reassessment and recommendation for each disputed property.

It is recommended that the amended planning proposal be forwarded to the Department of Planning & Environment with a request that it be finalised. It is also recommended that Council resolve to adopt the proposed amendments to the MDCP 2011 to come in force once the planning proposal is gazette.

ATTACHMENTS

1. Heritage Assessment Report: Graham Hall

Item 4



The Churches of Christ Property Trust ABN 73 068 989 953
Incorporated by the Churches of Christ in New South Wales Incorporation Act 1947

Mailing Address	Street Address
PO Box 3561 RHODES NSW 2138	Level One 3 Rider Boulevard, Rhodes
Email: propertytrust@christhope.org.au	Phone: 02 8719 2631

28 February 2017

Mr Richard Pearson
Administrator
Inner West Council
260 Liverpool Road
ASHFIELD NSW 2131

By hand

Dear Mr Pearson,

Marrickville Church of Christ – 389 Illawarra Road, Marrickville

Thank you for the opportunity to speak to the Council proposal that recommended the heritage listing of 389 Illawarra Road, Marrickville (the "Property"). I am James Cartwright, the Secretary of the Churches of Christ Property Trust (the "Trust"), the owner of the Property.

Standing on the Property is a simple Protestant church building constructed of brick circa 1900 together with an attached flat-roofed modern structure. That modern structure has no heritage or other significance of any kind. Any heritage listing contemplated by Council should not include that flat roofed structure.

Heritage listing of church building opposed

The listing of the whole of the brick Church building as a heritage item is opposed for good reasons.

While that church building has served previous generations well, a contemporary building on the Property is needed to serve and respond to the current needs of the local community. That is the only way of ensuring the Church of Christ can serve future generations of the community.

Heritage Act Criteria for Local Heritage Significance

The *Heritage Act 1977* ("Heritage Act") sets out eight criteria for local heritage significance. The statement of significance prepared by Council in support of the proposed listing suggests only three of those criteria could possibly be satisfied: the historical; the aesthetic; and the social.

Those criteria require consideration.

The historical significance suggested is not related to the building itself but rather to the presence of the congregation that previously met there.

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The aesthetic significance is described as one of a simple Protestant Church which is as an example of Federation Gothic style. The brick church building is a very poor example of that genre and contains only minor elements of that genre.

The social significance is identified as socially significant for its current congregation. That is in fact no longer the case.

The historical evidence for the local presence of a Church of Christ is dependent upon that presence continuing - and that presence will only continue and flourish if an aesthetically appealing building meeting contemporary needs is constructed on the Property.

Therefore, the only criterion under the Heritage Act calling for any consideration is the aesthetic significance.

Church building – front façade

The Trust considers that limited aesthetic significance can be maintained by restricting any heritage listing to the front façade of the church building only. The only means of ensuring some significance to attach to this property is to allow a sympathetic, contemporary redevelopment of the Property which incorporates the front façade in the redevelopment. A good and well-known example of a redevelopment of that kind is Scots Church in Margaret Street, Sydney.

as per our original submission
In the circumstances, the Trust urges Council to limit any heritage listing to the front façade of the church building in order to facilitate the redevelopment of the Property in a manner which will benefit the local community and the new congregation to be established in the Property.

I thank you for your consideration of these matters.

Yours sincerely,

James Cartwright
Secretary
The Churches of Christ Property Trust

02 8719 2631
james.cartwright@freshhope.org.au

A Ministry of Churches of Christ in New South Wales
<http://www.freshhope.org.au/>

Attachment 9

Attachment 2

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MEMORANDUM

TO: Maxine Bayley
FROM: Graham Hall, Heritage Consultant Architect
DATE: 30 March 2017
SUBJECT: 389 Illawarra Road, Marrickville

Background

The Churches of Christ Property Trust has made a late submission challenging the recommendation to heritage-list the church at the above address, including an assessment by Greg Patch of Archnex Designs. The Trust's original submission sought listing of the façade only, essentially on the basis of financial hardship. My review of the proposed listing was of course based on the criteria gazetted by the Heritage Council. These are

- (a) Historical significance
- (b) Historical association significance
- (c) Aesthetic significance
- (d) Social significance
- (e) Technical/Research significance
- (f) Rarity
- (g) Representativeness

Original assessment: Paul Davies report

The Statement of Significance in the report by Paul Davies, on which the proposal to list the church was based, refers to the criteria it is considered to satisfy, as follows:

The Church of Christ, Marrickville, built circa 1900, is of historical significance as evidence of the early and continuing local presence of the Church of Christ, a protestant non-conformist group with an American religious reformation background and a Wesleyan temperance philosophy, located in a then working-class area. The historical evidence of the temperance movement campaigning of the Church of Christ in the early 20th century is an important part of early 20th century social activism. The church is of local aesthetic significance as a representative, simple protestant church built in the Federation Gothic style, featuring brickwork with rendered bands, gabled terracotta tiled roof, buttresses of brick and rendered brick, and to the facade gothic arched windows within rectangular window frames, and a brick front porch with a castellated parapet. The church has social significance for its current congregation.

Independent review

The claim of social significance may have been based on a reasonable assumption at the time: church congregations tend to be older than the general population, and to value the fabric of their church and its associations. Others in the community may also value it – that is, they would miss it if it were no longer there. It is often difficult to gauge the extent of such community sentiment, and in the absence of more definite supporting evidence, and given the church's initial objection – including advice that the building is no longer used for services – my assessment was that social significance had not been established. Otherwise, I concurred with the Statement of Significance, and the assessment that the church has historical and aesthetic significance, and was representative. I also considered it to be rare (an item can be both rare in the area and a good representative example of its type).

Late submission

This memo now considers these matters in detail, in response to the report that has been submitted. The report is appropriately based on the Heritage Council's guidelines (NSW Heritage Office, NSW Heritage Manual, *Assessing Heritage Significance*, 2001), but the analysis is very brief. It consists only of an identification of those guidelines considered applicable and an assertion against each criterion that the item does not satisfy it.

Attachment 10

Attachment 2

Note on Heritage Council criteria, guidelines and amplifying comments

It should be noted that the Heritage Council requires only one of the seven criteria to be satisfied, but counsels against a simplistic box-ticking approach to the guidelines. The criteria and supporting guidelines are reproduced at the end of this memo. It is not necessary, indeed it is unusual, that an item satisfies each of the guidelines for inclusion and none of those for exclusion under any criterion. This is clear from various qualifying comments which accompany the criteria and guidelines, which can be found in the document. Relevant extracts are quoted here.

Historical significance

The submitted report concludes that the church lacks historical significance with the simple assertion that one guideline for exclusion applies: *Provides evidence of activities or processes that are of dubious historical importance.*

The guidelines for historical significance are augmented by these comments on p. 12:

The inclusion guidelines are pointers to assist in making an assessment against this criterion, but should not constrict the consideration. Similarly, the attributes described in the exclusion guidelines can be used to check if the fabric of the item or place meets the criterion, or to check a judgment that an item does not meet this criterion.

Note also the following amplification of the guidelines for historical significance, also on p.12::

Types of items which meet criterion (a) include:

- *items which demonstrate strong associations to past customs, cultural practices, philosophies or systems of government, regardless of the intactness of the item or any structure on the place;*
- *items associated with significant historical events, regardless of the intactness of the item or any structure on the place;*
- *significant cultural landscapes and other items demonstrating overlays of the continual pattern of human use and occupation; and/or*
- *items where the physical fabric (above or below ground) demonstrates any of the points described above.*

The church is one of a number of similarly substantial churches built around the same time throughout the suburb and former LGA of Marrickville. Some are still used as churches; others are empty or have been adaptively re-used. They demonstrate strong associations to past customs, cultural practices and philosophies. In a future where religious observance and buildings may become increasingly different, they will demonstrate to future generations that when the suburbs emerged from the villages and small farms in the area, religion played a notable part in the life of the community; that groups were prepared to devote considerable resources to the construction of church buildings; that there were different denominations, whose beliefs and practices were subtly echoed in the form of their buildings; even the fact that there was freedom of religion.

The church is therefore historically significant.

Aesthetic significance

The submitted report concludes that the church lacks aesthetic significance with the simple assertion that two guidelines for exclusion apply: *Is not a major work by an important designer or artist. Has only a loose association with a creative or technical achievement.*

It is true that the church is not (or is not known to be) a major work by an important designer. But it does not have "only a loose association with a creative or technical achievement." It is, as the submitted report acknowledges, a restrained example of the Federation Gothic style; and it is largely intact. Hence it does demonstrate creative or technical excellence. It is also something of a landmark, and will remain so despite any redevelopment in its vicinity. And it exemplifies a particular taste, style or technology.

The church is therefore aesthetically significant.

Rarity and representativeness

Criteria (a) to (e) refer to the nature of a item's significance. Rarity and representativeness ((f) and (g) respectively) refer to the degree of significance. They must be considered in relation to criteria (a) to (e) and by comparison with any similar items in the area.

Item 4

The submission asserts that the church, in the words of one guideline for exclusion, is *not rare*. With regard to representativeness, it asserts, *Does not represent well the characteristics that make up a significant variation of a type*.

The guidelines are not expressed in quantitative terms. There are several Federation Gothic churches in the former Marrickville LGA, which is a large area, but they are far fewer in number than various types of houses, villas, shops and other building types. *It is therefore rare*.

Similarly, there is not a specific list of "types" of item, or of "variations" of types. For buildings, it is usual to refer to their style when discussion whether an item is a rare or representative example of a type. The church is an example of the Federation Gothic style. It is in cavity brick, not stone, and has rendered details also found in other Federation styles, and overall it is a restrained rendition.

Contrary to the assertion above, it

- *is a fine example of its type*
- *has the principal characteristics of an important class or group of items*
- *has attributes typical of a particular way of life, philosophy, custom, significant process, design, technique or activity*

It is therefore representative.

Conclusion

Having reviewed the submission, I remain of the view that the church satisfies the criteria for listing.

As previously, I recommend that Council provides as much assistance as possible to the owners in exploring the options for adaptive re-use of the church, including options available under the heritage incentive clause 5.10 (10) of the LEP.

Item 3

Attachment 10

Attachment 2

HERITAGE COUNCIL GUIDELINES FOR ASSESSING SIGNIFICANCE

(a) Historical significance

Under the NSW Heritage Assessment Criteria, an item has historical significance if it is *important in the course, or pattern, of the area's cultural or natural history*. The Heritage Manual provides the following guidelines for inclusion or exclusion on the basis of historical significance:

Guidelines for INCLUSION

- shows evidence of a significant human activity
- is associated with a significant activity or historical phase
- maintains or shows the continuity of a historical process or activity

Guidelines for EXCLUSION

- has incidental or unsubstantiated connections with historically important activities or processes
- provides evidence of activities or processes that are of dubious historical importance
- has been so altered that it can no longer provide evidence of a particular association

(b) Historical association significance

Under the NSW Heritage Assessment Criteria, an item has historical association significance if it has *strong or special association with the life or works of a person, or group of persons, of importance in NSW's or the area's cultural or natural history*. The Heritage Manual provides the following guidelines for inclusion or exclusion on the basis of historical association significance:

Guidelines for INCLUSION

- shows evidence of a significant human occupation
- is associated with a significant event, person, or group of persons

Guidelines for EXCLUSION

- has incidental or unsubstantiated connections with historically important people or events
- provides evidence of people or events that are of dubious historical importance
- has been so altered that it can no longer provide evidence of a particular association

(c) Aesthetic significance

Under the NSW Heritage Assessment Criteria, an item has aesthetic significance if it is *important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW or the area*.

The Heritage Manual provides the following guidelines for inclusion or exclusion on the basis of aesthetic significance:

Guidelines for INCLUSION

- shows or is associated with creative or technical innovation or achievement
- is the inspiration for a creative or technical innovation or achievement
- is aesthetically distinctive
- has landmark qualities
- exemplifies a particular taste, style or technology

Guidelines for EXCLUSION

- is not a major work by an important designer or artist
- has lost its design or technical integrity
- its positive or sensory appeal or landmark and scenic qualities have been more than temporarily degraded
- has only a loose association with a creative or technical achievement
- has been so altered that it can no longer provide evidence of a particular association

(d) Technical/Research significance

Under the NSW Heritage Assessment Criteria, an item has technical/research significance if it has potential to yield information that will contribute to an understanding of NSW's or the area's cultural or natural history. The Heritage Manual provides the following guidelines for inclusion or exclusion on the basis of technical/research significance:

Guidelines for INCLUSION

- has the potential to yield new or further substantial scientific and/or archaeological information
- is an important benchmark or reference site or type
- provides evidence of past human cultures that is unavailable elsewhere

Guidelines for EXCLUSION

- the knowledge gained would be irrelevant to research on science, history or culture
- has little archaeological or research potential
- only contains information that is readily available from other resources or archaeological sites

(e) Social significance

Under the NSW Heritage Assessment Criteria, an item has social significance if it has strong or special association with a particular community or cultural group in NSW or the area for social, cultural or spiritual reasons. The Heritage Manual provides the following guidelines for inclusion or exclusion on the basis of social significance:

Guidelines for INCLUSION

- is important for its associations with an identifiable group
- is important to a community's sense of place

Guidelines for EXCLUSION

- is only important to the community for amenity reasons
- is retained only in preference to a proposed alternative

(f) Rarity

Under the NSW Heritage Assessment Criteria, an item is rare if it possesses uncommon, rare or endangered aspects of NSW's or the area's cultural or natural history. The Heritage Manual provides the following guidelines for inclusion or exclusion on the basis of rarity:

Guidelines for INCLUSION

- provides evidence of a defunct custom, way of life or process
- demonstrates a process, custom or other human activity in danger of being lost
- shows unusually accurate evidence of a significant human activity
- is the only example of its type
- demonstrates designs or techniques of exceptional interest
- shows rare evidence of a significant human activity important to a community

Item 4

Item 3

Guidelines for EXCLUSION

- is not rare
- is numerous but under threat

(g) Representativeness

Under the NSW Heritage Assessment Criteria, an item is representative if it is important in demonstrating the principal characteristics of a class of NSW's or the area's cultural or natural places or cultural or natural environments.

Guidelines for INCLUSION

- is a fine example of its type
- has the principal characteristics of an important class or group of items
- has attributes typical of a particular way of life, philosophy, custom, significant process, design, technique or activity
- is a significant variation to a class of items
- is part of a group which collectively illustrates a representative type
- is outstanding because of its setting, condition or size
- is outstanding because of its integrity or the esteem in which it is held

Guidelines for EXCLUSION

- is a poor example of its type
- does not include or has lost the range of characteristics of a type
- does not represent well the characteristics that make up a significant variation of a type

Attachment 10

Attachment 2

389 Illawarra Rd, Marrickville

Heritage Assessment

Version 1.3

18 May 2020



for
Inner West Council

by
Hector Abrahams Architects



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This report was written by
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Heritage Assessment
389 Illawarra Rd, Marrickville

April 2020

1. Introduction

Hector Abrahams Architects has been commissioned by Inner West Council to prepare this significance assessment of the Church of Christ at 389 Illawarra Road, Marrickville. The purpose of this report is to ascertain whether the church building merits listing as a heritage item in the Marrickville Local Environmental Plan 2011.

2. Description of Site

The subject site is 389 Illawarra Road, Marrickville.

The boundary of the site is the boundary of land title Lots 4, 5 and 6, DP 2595.



Figure 1: 389 Illawarra Rd, Marrickville (Source: NearMap.com with HAA overlay)

3. History

Unless otherwise stated, historical information below comes from Roy Dixon's 1968 Church of Christ, Marrickville: Seventy-Fifth Anniversary booklet.

The Church of Christ congregation at Marrickville formed in 1889 as an offshoot from the Enmore Church, the 'mother church' of the denomination in New South Wales.

The group met in a private home in View Street, Marrickville, for over four years, and in April 1893 became established as a separate organised church of eighteen members.

In January 1894, the first Marrickville Church of Christ building opened for worship. The weatherboard building on brick foundations was described as a "Schoolroom to be used for worship until the church is able to erect a more commodious and substantial building." The site had been purchased in 1891 by officials of the Enmore Church and handed over to Marrickville upon its formation.

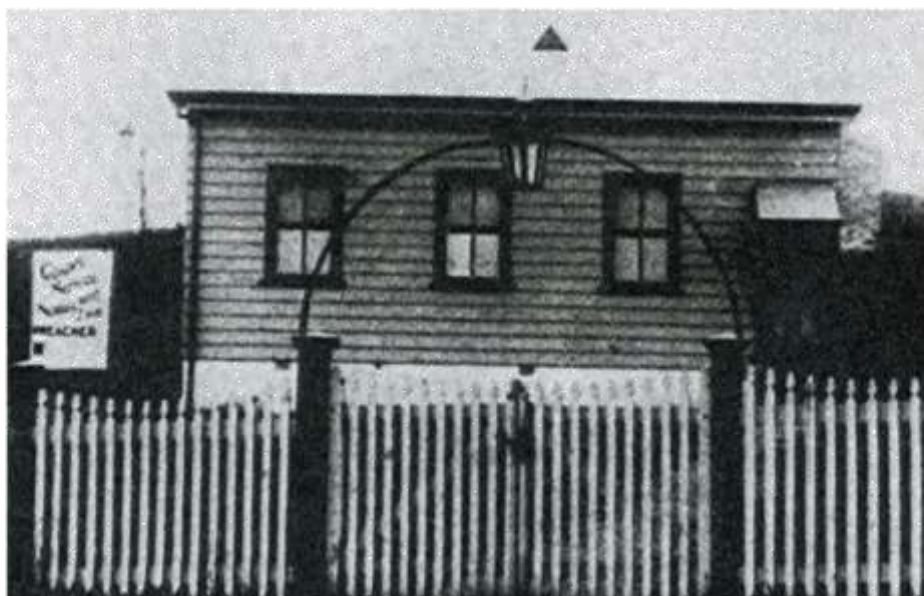


Figure 2: The original temporary wooden chapel (Dennis Nuttin Archnex Designs, *Heritage Assessment 389 Illawarra Road, Marrickville*, March 2017, p. 3).

About 1899, the church building was widened by 8½ feet along its entire length and a baptistry and two ante-rooms were added.

During the period 1900 to 1907, Marrickville returned to the oversight of the Enmore Church, which also had charge of a church in Petersham.

The current brick church building opened for worship in January 1912. It was designed by the architect Alfred G. Newman (1875-1921), who was reported to have plans for the new church in progress in February 1909.¹ When tenders were called in July 1911, the building was described as follows:

A new Church of Christ, to be erected on the Illawarra-road, Marrickville. It will be built adjoining the present church building, and will be carried out in brickwork in Romanesque style. The internal dimensions of the church will be 47ft by 36ft. The platform will be at the rear, with sliding doors at the back, giving access to the present church. There will be a porch in front, approached by two flights of stone steps. The floors will be sloping and the roof an open timbered one.²



Figure 3: 389 Illawarra Rd, Marrickville, 1936.³

¹ "GENERAL NOTES." The Sydney Morning Herald 16 February 1909: 4.

² "GENERAL NOTES." The Sydney Morning Herald 25 July 1911: 14.

³ Marrickville, 75 Years of Progress 1861-1936, reproduced in Weir Phillips, *Heritage Assessment*, p. 10.

The building was altered in 1940 to reverse the seating direction, add an entrance porch, and to create an elevated baptismal immersion pool over the existing platform.⁴

The original weatherboard church building was “practically” demolished in 1958⁵ and the church hall was “reconstructed” by laypersons during a series of working bees over the course of nearly a year.

The nature of the hall before 1958 is unclear. A 1943 aerial photograph shows a similar roof form to that which exists today (see below). This may suggest that the structure of the original hall was retained in some form.



Figure 4: 1943 aerial image (left, maps.six.nsw.gov.au) and 2020 (NearMap.com). The present roof form appears to be similar to the 1943 form.

⁴ The 1940 date is confirmed by an entry in the Marrickville Council Building Register [Sept 1935-July 1945] for 9 August 1940; an addition to the Church of Christ, 389 Illawarra Road, valued at £200. Builder A. Rugrindyke. The full range of the building register from 1922-1957 was searched, this was the only entry found relating to the place.

⁵ It is unclear exactly what is meant by the “practical” demolition and it is possible that some of the original church building remains. HAA observed no fabric that could be dated to earlier than the 1950s.

4. Physical Analysis

The Church of Christ at 389 Illawarra Road, Marrickville, is a free-standing church building in Illawarra Road, facing and terminating the end of Greenbank Street.

It is in the Arts and Crafts style with gothic details, constructed of face common brick, with cement rendered bands and a chequerboard render pattern at the apex of the gable wall. The 1940 side entry porch is constructed of red brick. There is a parapet of face brick with rendered coping and a finial at the apex. The roof is covered by glazed terracotta Marseille tiles.

The main interior is of plastered masonry with an open frame truss timber ceiling. There is a raked floor of timber, covered by carpet. To the rear and connected by a formal opening in the east wall of church is the church hall. It consists of a single large room with a tent form ceiling, fully lined in hardboard. It has a small stage and backstage area, and several small rooms opening off it to the east. It appear to be a light framed structure, with brick veneer walls to some elevations.

A detailed description of all fabric, including photographs, estimated date, and significance ranking of each element, is included in Appendix 1.

5. Summary of existing reports

389 Illawarra Road, Marrickville was identified in a report by Paul Davies which assessed significance and recommended listing – *Marrickville Local Government Area Southern Area Heritage Review*, April 2015. Since then, the place has been the subject of four heritage assessment reports, two memos, and a proposed heritage inventory for the place has been prepared. The findings of each report are summarised below.

Inner West Council Draft Inventory

This was prepared by Inner West Council after the 2015 report by Paul Davies. It identifies the historical, aesthetic, and representative significance of the church and claims social significance for "its current congregation". The draft inventory considers that the church does not meet any other criteria for listing.

Archnex Heritage Assessment, March 2017

This report was prepared by Archnex Designs for the Church of Christ Property Trust. In the view of the author, the church does not meet any of the criteria for listing. It is argued that because the church cannot be seen "in-the-round" it is only "a façade within a streetscape". It is also argued that the 1940 alterations "diminishes an ability to understand its designed function to a large degree."

Weir Phillips Heritage Assessment, February 2019

Prepared at the request of the owners of the site, this report concludes that the church "may reach the threshold for listing on the LEP on the basis of its integrity and construction during a significant period in the area's development," noting its historical, associative and aesthetic values.

GBA Heritage Issues Review, March 2019

This report prepared by GBA Heritage, which also investigates the neighbouring house, concludes that neither building meets the criteria for local heritage listing. Despite this, the author notes that the subject site has been occupied by the Church of Christ since 1894 and "demonstrates the historical role of the Church of Christ in Australia's cultural history of the temperance movement". It also notes that it has "some historic significance" as development dating from a key period of development in Marrickville.

Curio Projects Heritage Assessment, October 2019

Prepared by Curio Projects for Fresh Hope of the Church of Christ NSW, this assessment responds to those prepared by GBA and Weir Phillips. Some of the responses focus more on planning considerations and owner requirements than heritage issues per se. The report notes the decline of attendance at the church by its congregation and argues that this undermines its historic, associative, aesthetic and social significance of the building. It is concluded that the significance of the buildings does not outweigh the value of the proposed development.

6. Comparative analysis

6.1. Churches of Christ in New South Wales at 1902/3

Maston's 1903 history of the Churches of Christ in Australasia attempted to create a comprehensive record of every Church of Christ in Australia and New Zealand. It includes brief histories of each church and biographical details of influential church workers. The earliest Church of Christ organisations were founded in New South Wales in the 1850s, but it was not until the 1890s that the denomination was seen to gain any great momentum in the colony. Thus the churches identified by the Maston publication in 1903 represent the early proliferation of the denomination. Brief histories are given for the following churches:

- 1852 Enmore*
- 1856 Fairfield; in 1883 transferred to Rookwood
- 1863 Chatham (Manning River)*
- 1864 City
- 1866 Merewether (Newcastle)
- 1883 Rookwood established 1883
- 1884 Lismore*
- 1884 Moree
- 1884 Bungawalbyn (Richmond River)
- 1884 Petersham
- 1889 Corowa
- 1890 Prospect
- 1892 Paddington*
- 1893 Marrickville*
- 1898 Canley Vale (Sunday School)

In addition, Matson gives membership statistics for churches at Broken Hill, Junee, Mungindi, Rockdale, Wagga Wagga* and Wingham*. Membership in New South Wales at this time totalled 1,936, 30% of whom (587) attended Enmore.

389 Illawarra Road, Marrickville, in terms of the use of the site by the Church of Christ, is therefore evidence of the significant growth in the denomination in the 1890s.

*Denotes churches still active in 1983 (Stephenson 1984: 95-96)

6.2. Inner Suburban Churches of Christ

The Sydney Church of Christ left its 1869 church building in Elizabeth Street (presumed demolished) for the former Freethought Hall, 69 Campbell Street, Surry Hills, in 1895. The building was sold into private ownership in 1983.⁶ Built in 1890, the former Freethought Hall is still standing but does not have any physical characteristics that denote its former use as a Church of Christ.



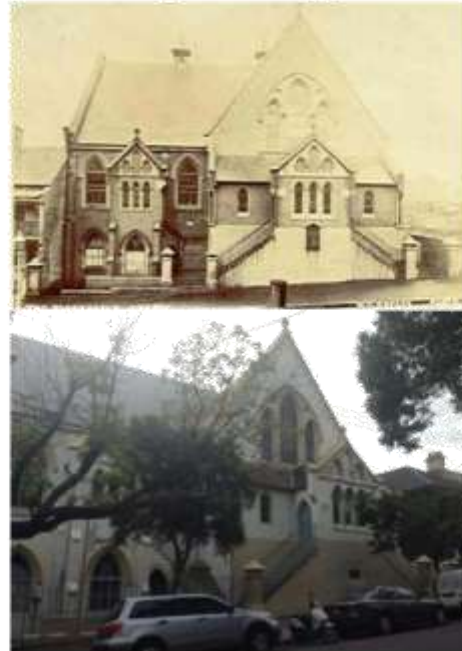
Figure 5: Former Freethought Building, 69 Campbell Street, Surry Hills, photographed in 2001.
Source: Photographer Mark Stevens, courtesy City of Sydney Archives A-01129883

⁶Thorp 1998: 12

The Enmore Tabernacle, 17-21 Metropolitan Road, was constructed in 1886 and enlarged in 1905. It is currently used as a Seventh Day Adventist Church.



Figure 6: Enmore Tabernacle. Above, circa 1903 (source Maston: 310); Right top, post-1905 (source Inner West Council Library Service; Robert Hutchison, donor); Right bottom, present-day appearance (source State Heritage Inventory)



Tenders for the construction of the Petersham Church, 2a Cannon Street, were called by John Halliday in June 1885.⁷ The building was enlarged by 1915, and is now in commercial use, substantially altered.



Figure 7: Petersham, top left: circa 1903 (Maston: 327). Top right: circa 1915. (Inner West Council Library Service; Robert Hutchison, donor) Bottom: August 2019 (Google)

⁷"IMMIGRANTS." The Sydney Morning Herald 9 June 1885: 2.

The Paddington Church, 116 Paddington Street, was constructed in 1901 and has been enlarged with a porch at an unknown (early) date. It continues to function as a Church of Christ.

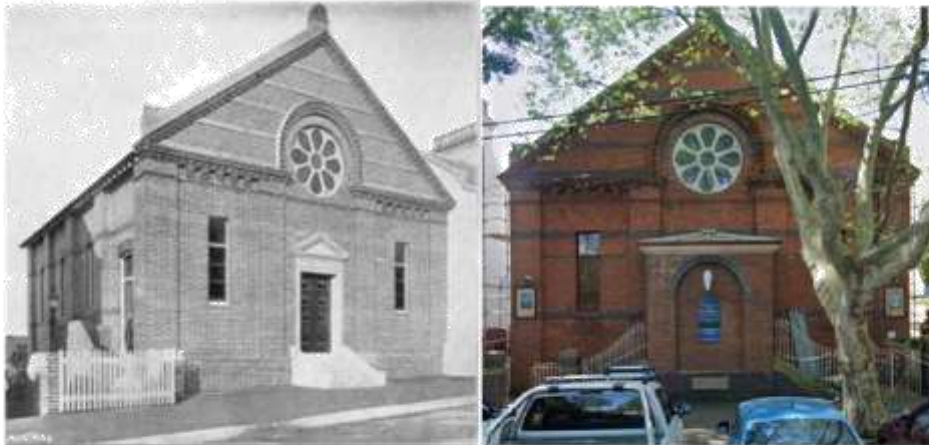


Figure 8: Paddington. Left, circa 1903 (source Maston: 325) Right, September 2019 (source Google)

Conclusion

The above summary shows that there are relatively few purpose-built Churches of Christ still extant in inner suburban Sydney. In the Inner West, there was historically a group of churches of which only Enmore and Petersham (much altered) remain. The below map illustrates the location of these churches.

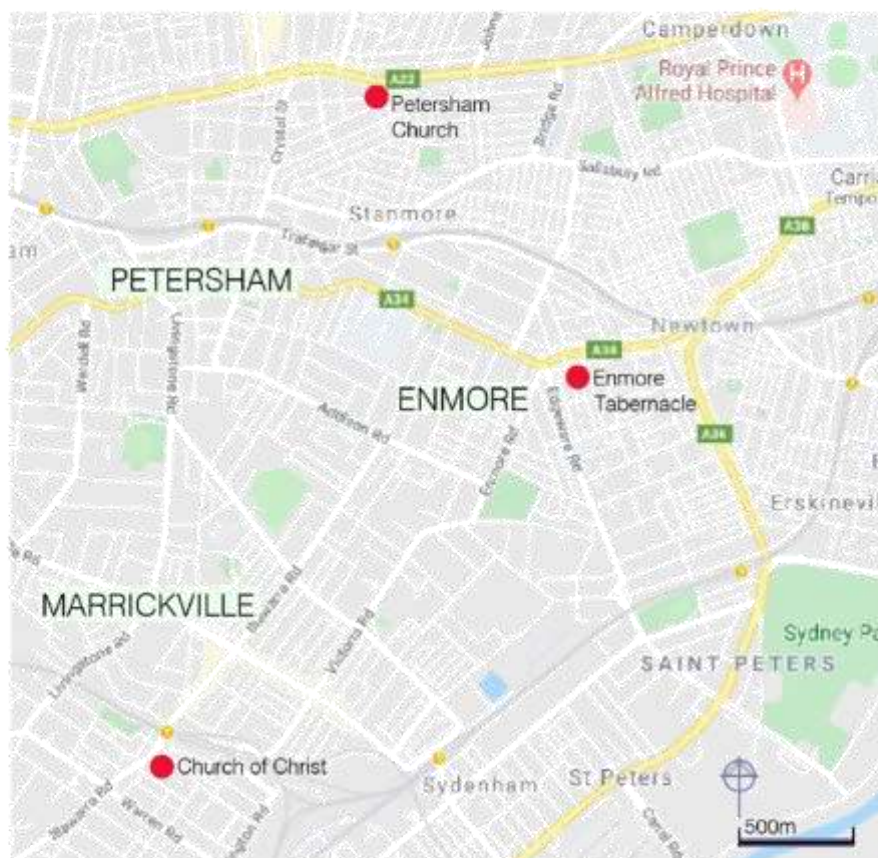


Figure 9: Map showing the location of the Churches of Christ in the Inner West (Google Maps with HAA overlay).

6.3. Foundation Churches of Marrickville

The formation of the Marrickville Church of Christ in 1893 places it at the later end of the proliferation of worship places in the suburb, brought about largely by the residential development of the suburb following the construction of the railway station. In the late nineteenth and early twentieth centuries, the civic and commercial centre of Marrickville formed at the junction of Illawarra and Marrickville Roads and spread to the railway station. In this main part were founded over a short period churches from a particularly large number of denominations in prominent positions. The sequence of Marrickville's Christian denominational churches was established as follows:⁸

Congregational Now known as the Hepisipa Congregation Tongan Parish of the Uniting Church, the building was initiated in 1871 and extended in 1883. 388 Illawarra Rd.

⁸Information largely drawn from Australian Christian Church Histories www.churchhistories.net.au

Anglican Original church-school building 1883. St Clement's (90 Petersham Road) was built circa 1909. The building is extant and identified today as Marrickville Road Church.

Methodist The Warren Methodist Church began with a Sunday school in 1885. The church building on Illawarra Road was built in 1907 to a design by Alfred G. Newman; it has been demolished and the site is now a carpark in the corner of Calvert Street.

Catholic The parish was created in 1887. The foundation stone for the first church was laid in the same year at a site on Despointes Street. The current church (St Brigit's) at 153 Livingstone Road was built 1918-1921; a new facade and bell tower were added in the 1950s.

Baptist Congregation formed in 1887; initially met in Winkie's Hall, Illawarra Road. First church on the current site was built in 1889; this was added to in 1909 and again with a new worship building in 1961.

Presbyterian St Andrew's Church was founded in 1888 on Illawarra Road. The building was demolished following Union in 1971.

Church of Christ (subject building): Established in Marrickville 1893, the original church was built in 1894. A second church was built in 1911 and altered in 1940. Extant.

Greek Orthodox A house was converted to church use 1961; the current church (St Nicholas) opened 1965. 203 Livingstone Rd

6.4. Buildings designed by Alfred Gambier Newman

A number of Newman's buildings are listed in local heritage registers throughout New South Wales. They demonstrate that Newman produced a full body of individual designs in church architecture in the Arts and Crafts style. They include the following.

Former "Cenef House" Including Interiors, 201 Castlereagh Street, Sydney – now known as Scientology House, this is a five storey Federation Free Classical building completed in 1908 and modified in the 1940s. The building is listed for its aesthetic, historic, social and representative significance.⁹

Uniting Church, Cnr Helena and Harrow Street, Auburn – Designed by Newman in 1910¹⁰ as a Methodist church, it is constructed of brick, rendered at the front, with a high decorative parapet at the façade and piers defining the entrance porch. Listed on the local heritage register for its historic, aesthetic, social and rarity values.

⁹ NSW Heritage Inventory, 'Former "Cenef House" Including Interiors', <https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=2424181>

¹⁰ Australian Institute of Architects Biographical Information – Alfred Gambier Newman, citing Sydney Morning Herald, 10 August 1910, p. 7.



Figure 10: Auburn Uniting Church, NSW Heritage Inventory.¹¹

Uniting Church Strathfield, 13 Carrington Avenue, Strathfield – Designed by Alfred G Newman as a Methodist Church in 1907-08.¹² This is perhaps the most impressive of Newman's buildings, with strong repeated use of the same rendered bands and chequerboard pattern as seen at 389 Illawarra Road. Listed on the local heritage register for its aesthetic and historical value.¹³

¹¹ 'Auburn Uniting Church and Victory Hall', NSW Heritage Inventory,

<https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=1030023>

¹² 'METHODIST CHURCH, STRATHFIELD' *Sydney Morning Herald*, Tuesday 10 December 1907, p. 4.

¹³ NSW Heritage Inventory, 'Uniting Church Strathfield',

<https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=2450048>



Figure 11: Strathfield Uniting Church.¹⁴

Uniting Church, 60 Howard Avenue, Dee Why – A 1921 former Methodist Church designed by Alfred G Newman.¹⁵ It is a simple and very modest church, listed for its historical and social significance.¹⁶

Uniting Church, Cnr Strafford Street and Northbrook Lane, Manilla – Though attributed in the State Heritage Inventory to Sydney architect I F Rowse, the below sketch appears to confirm that this Methodist church was designed by Newman. Decorative bands of render on face brick are seen here as in other examples. Listed for its historic and aesthetic significance.

¹⁴ 'Carrington Avenue Uniting Church', SydneyOrgan.com, <https://www.sydneyorgan.com/StrathfieldUC.html>

¹⁵ 'Tenders', Sydney Morning Herald, Wednesday 6 October, 1920, p. 8.

¹⁶ NSW Heritage Inventory, 'Uniting Church', <https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=2610050>



Figure 12: Drawing of Manilla Methodist Church, 1910.¹⁷

Young Uniting Church, 82 Lynch Street, Young – Constructed 1908-9, a landmark building in the Federation free style designed by Alfred G Newman. Features similar rendered bands as at Marrickville. Listed for its historical, aesthetic, associative, and social significance.¹⁸

Woodford Uniting Church, 68A-68B Great Western Highway, Woodford – Designed by Alfred G Newman and completed in 1911, this church also features rendered bands and a parapeted wall.¹⁹

¹⁷ Australian Institute of Architects Biographical Information – Alfred Gambier Newman, citing Sydney Morning Herald, 24 December 1910, p. 8.

¹⁸ NSW Heritage Inventory, 'Young Uniting Church', <https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=2760116>

¹⁹ NSW Heritage Inventory, 'Woodford Uniting Church', <https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=1170188>

7. Assessment of Significance

7.1. Ability to demonstrate

Guidelines from the NSW Heritage Office emphasise the role of history in the heritage assessment process. A list of state historical themes has been developed by the NSW Heritage Council, in *New South Wales Historical Themes Table showing correlation of national, state and local themes, with annotations* Dated 4 October 2001.

The table below identifies fabric, spaces and visual relationships that demonstrate the relevant historic themes in evidence at 389 Illawarra Road, Marrickville.

Australian Theme	NSW Theme	Notes	Example
4 Building settlements, towns and cities	Towns, suburbs and villages	Activities associated with creating, planning and managing urban functions, landscapes and lifestyles in towns, suburbs and villages	389 Illawarra Road is one of a number of civic buildings in Marrickville remaining from the development of the suburb in the late 19 th and early 20 th century. Together with the neighbouring houses and shop-top buildings, it is part of an intact block of Edwardian buildings that contribute to the streetscape.
8 Developing Australia's cultural life	Religion	Activities associated with particular systems of faith and worship	389 Illawarra Road has a long ongoing association with the Church of Christ, from 1894, before the construction of the existing building, until the present. The building has been an integral part of that association since 1912 and remains so despite the absence of a congregation.
9 Marking the phases of life	Birth and Death	Activities associated with the initial stages of human life and the bearing of children, and with the final stages of human life and disposal of the dead.	The immersion baptismal font within the church provides evidence of the practice and importance of baptism as practiced by the Church of Christ.

Australian Theme	NSW Theme	Notes	Example
9 Marking the phases of life	Persons	Activities of, and associations with, identifiable individuals, families and communal groups	The building has an association with its architect Alfred G Newman. It is a good representative example of his work and intact in most of its detail.

7.2. Assessment against NSW heritage assessment criteria

Criterion (a) An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area)

389 Illawarra Road, Marrickville, is one of a number of foundational churches of Christian denominations in the suburb of Marrickville, constructed in an important period of the suburb's development.

It is also one of a set of three or four Church of Christ congregations that were founded in the late nineteenth century in what is now the Inner West, under the mother congregation at Enmore. This is the only group of its kind in New South Wales. The Marrickville building is the latest to be built and, whereas the others are in back streets, it is in a prominent location at the top of Greenbank Street on Illawarra Road.

Inclusion Guidelines	Check
Shows evidence of a significant human activity	Yes
Is associated with a significant activity or historical phase	Yes
Maintains or shows the continuity of a historical process or activity	No
Exclusion Guidelines	
Has incidental or unsubstantiated connections with historically important activities or processes	No
Provides evidence of activities or processes that are of dubious historical importance	No
Has been so altered that it can no longer provide evidence of a particular association	No

Level of Significance: Local

Criterion (b) An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area)

389 Illawarra Road is associated with the Church of Christ in Marrickville and with its architect Alfred Gambier Newman, who designed a number of significant Methodist churches throughout New South Wales. It is a fine example of his work, though not exceptional.

Inclusion Guidelines	Check
Shows evidence of a significant human occupation	No
Is associated with a significant event, person, or group of persons	Yes
Exclusion Guidelines	
Has incidental or unsubstantiated connections with historically important people or events	No
Provides evidence of people or events that are of dubious historical importance	Yes
Has been so altered that it can no longer provide evidence of a particular association	No

Level of Significance: Not significant

Criterion (c) An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or in local area)

389 Illawarra Road is a good example of an Arts & Crafts church with Gothic detail built in the Federation period. It is a good example of the work of Alfred G Newman, architect, who is notable as a designer of protestant churches over a long career. It has moderate landmark qualities, being sited facing up Greenbank Street. Together with the neighbouring houses and shop-top buildings, it forms a block of highly intact Edwardian buildings which make a positive contribution to the streetscape of Illawarra Road.

Inclusion Guidelines	Check
Shows or is associated with, creative or technical innovation or achievement	Yes
Is the inspiration for a creative or technical innovation or achievement	No
Is aesthetically distinctive	Yes
Has landmark qualities	Yes
Exemplifies a particular taste, style or technology	Yes
Exclusion Guidelines	

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Is not a major work by an important designer or artist	Yes
Has lost its design or technical integrity	No
Its positive visual or sensory appeal or landmark and scenic qualities have been more than temporarily degraded	No
Has only a loose association with a creative or technical achievement	No

Level of Significance: Local

Criterion (d) An item has strong or special association with a particular community or cultural group in NSW (or local area) for social, cultural or spiritual reasons

Considering that it is no longer used by the congregation, the social significance of the place has been lost – though could be recovered if a congregation were to use the building in future.

Inclusion Guidelines	Check
Is important for its associations with an identifiable group	No
Is important to a community's sense of place	No
Exclusion Guidelines	
Is only important to the community for amenity reasons.	No
Is retained only in preference to a proposed alternative	No

Level of Significance: Not significant

Criterion (e) An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area)

It is unlikely that 389 Illawarra Road has the potential to yield further information. It is possible that there may be some remnants of the foundations and structure of the original 1894 weatherboard church at the rear of the site.

Inclusion Guidelines	Check
Has the potential to yield new or further substantial scientific and/or archaeological information	Yes
Is an important benchmark or reference site or type	No
Provides evidence of past human cultures that is unavailable elsewhere	No

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Exclusion Guidelines	
The knowledge gained would be irrelevant to research on science, human history or culture	No
Has little archaeological or research potential	Yes
Only contains information that is readily available from other resources or archaeological sites	Yes

Level of Significance: Not significant

Criterion (f) An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)

389 Illawarra Road is a rare example of an Arts & Crafts church with Gothic detailing in Marrickville. It is a relatively rare example of a historic Church of Christ building in New South Wales, though the LGA also contains the foundational Enmore Tabernacle, which is an associated place.

Inclusion Guidelines	Check
Provides evidence of a defunct custom, way of life or process	No
Demonstrates a process, custom or other human activity that is in danger of being lost	No
Shows unusually accurate evidence of a significant human activity	No
Is the only example of its type	No
Demonstrates designs or techniques of exceptional interest	Yes
Shows rare evidence of a significant human activity important to a community	No
Exclusion Guidelines	
Is not rare	No
Is numerous but under threat	No

Level of significance: Local

Criterion (g) An item is important in demonstrating the principal characteristics of a class of NSW's cultural or natural places or environments (or a class of the local area's cultural or natural places or environments)

The church at 389 Illawarra Road is a good example of an Arts & Crafts church with Gothic detailing of the Federation period. It is also representative of a collection of foundational churches in Marrickville. Further, it is a representative example of the work of Alfred Gambier

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HECTOR ABRAHAM'S ARCHITECTS

Newman, who was a church architect. Finally, it is the most prominent of the set of Church of Christ churches built in the Inner West, the others being located in side streets.

Inclusion Guidelines	Check
Is a fine example of its type	Yes
Has the principal characteristics of an important class or group of items	Yes
Has attributes typical of a particular way of life, philosophy, custom, significant process, design, technique or activity	Yes
Is a significant variation to a class of items	No
Is part of a group which collectively illustrates a representative type	Yes
Is outstanding because of its setting, condition or size	No
Is outstanding because of its integrity or the esteem in which it is held	No
Exclusion Guidelines	
Is a poor example of its type	No
Does not include or has lost the range of characteristics of a type	No
Does not represent well the characteristics that make up a significant variation of a type	No

Level of Significance: Local

7.3. Statement of Significance

The Church of Christ at 389 Illawarra Road is a good example of an Arts & Crafts church with Gothic detailing, and one of the foundational denomination churches in Marrickville, dating from the end of an important period in the suburb's development.

It has historical significance in Marrickville as a foundational church in the area, and one of a distinctive group of such churches in the Inner West and for its long association with the Church of Christ.

It has aesthetic significance as a good example of an Arts & Crafts church with Gothic detailing in the area. It has landmark qualities from its siting at the end of Greenbank Street, and also forms part of a group of intact Edwardian buildings which contribute positively to the streetscape along Illawarra Road, together with the neighbouring houses and shop-top buildings.

It has some associative significance with its architect Alfred Gambier Newman. Newman designed a number of significant churches, largely for the Methodist denomination, throughout New South Wales.

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8. Listing Recommendations

The Church of Christ at 389 Illawarra Road, Marrickville, is of significance to Marrickville for its historic and aesthetic values and in the Inner West as one of a group of Church of Christ congregations and buildings, of which it is the most prominent. It is also significant for its rarity and representative values. It is locally significant to Marrickville and the Inner West more broadly, and therefore does warrant being listed as a heritage item in the Marrickville Local Environmental Plan (2011).

Further research may reveal the historical importance of Alfred Gambier Newman as a church architect. It is recommended that information about the church's relevance to his work be included in the listing, though not as a criterion meriting listing.

It is noted that the significance of the church is most embodied in the fabric of the 1912 church building, including its 1940 modifications, baptismal font, joinery furniture, and raked floor. The 1958-9 hall addition at the rear, while somewhat significant due to the nature and quality of its construction, evidencing the historical importance of the place as a whole for the congregation, would not on its own satisfy criteria for listing. The primary significance of the hall is embodied in the spatial relationship it has to the church, rather than the fabric itself.

It is recommended that the listing incorporate the entire site as defined by Lots 4, 5 and 6, DP 2595.

9. Appendices

9.1. Grading of spaces

The key spaces within the building are graded as follows. Areas that are not coloured are considered to be neutral.



9.2. Significant views



The above view of the church, looking east along Greenbank Street, shows it as a landmark. This is the most significant view of the church.



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9.3. Fabric survey and significance grading


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Element	Description	Date	Significance	Images
Interior				
Main chamber				
Ceiling lining	<p>Open frame timber truss purlins rafters lined with boards on the lower slope and the primary truss horizontal. All presented as clear finish.</p> <p>The lower bracing of the truss formed into a half Oval. The three trusses are supported on knee braces and rendered or stone corbels.</p> <p>Tie rods connect the small hammer beam horizontally and vertical to the main beam of the truss.</p> <p>The centre of each of the four ceiling bays are diamond shaped grills for ventilation in perforated metal</p>	Original	E	
Lights	On the primary trusses are fluorescent light fittings mounted to the inclined member.	Late 20 th century	I	


	Floodlight mounted on the middle truss, Southern side and the top of that truss	Early 21 st century	I	
Walls	Rendered and set masonry, painted, with inscribed dado rail at the level of the windowsills, scribed out in ashlar coursing above the dado.	Original	E	
	At the west end niche formed by a pointed arch and infilled	Architrave and niche original Infilling 1940	E L	


	At the east end an elaborate entry way to the hall framed as pilasters with a parapet between buttresses	Original	H	
Skirting	Timber Quad 50 mm	1940	H	
Floor	Timber framed raking from Highpoint in the east and low point in the west. In the west is a raised stepped platform.	1940	H	
Carpet	Broadloom blue	Mid/late 20th century	N	



Windows	North and south wall (7) West wall (2)timber box frame double hung windows. The lower sashes divided in four with horns, the upper sash is divided into a Gothic tracery. Beaded and chamfered architrave bullnose sill board with overload bed mould, deeply chamfered headboard	Original	E	
	West wall central – three light trace read window with plate tracery in the form of three lancets. Each has three sheets of fixed coloured leaded glass in a simple floral pattern	Original	E	

Doors	<p>West wall (2) solid timber rebated jamb lining, beaded and chamfered architraves, four panelled leaf on cast-iron hinges with decorative knobs, the leaf is three panels and very high waisted.</p> <p>On the vestry side the lower panel is boarded vertically with jointed boards, the upper two panels are devised with sunk moulds. On the main chamber side the doors are four panelled with stop chamfered details boarding to the lower and solid to the upper panels. Each door leaf has a mortise lock and Florentine brass decorative knob set with large backplate. Yale night latch.</p>	Original	E	
Door east end	<p>Polished timber solid timber jambs flush architraves with moulded headboard. A set of three steps in the thickness of the wall. Three semi glazed leaves. The middle leaf swings as a door leaf. Each leaf is two-panelled with an arch in the frieze panel. Polished Maple.</p> <p>The glazed panels have been inserted and trimmed in Pacific Maple more recently. The centre panel has a mortise lock and late 20th century brass lever set. The two side panels are removable they are held in place by four straight bolts of the 1930s in character.</p>	1940 with modifications from the late 20th c	H	
South east corner entrance doors	Timber lining, flat architrave to the vestibule, chamfered and beaded architrave and chamfered headboard to the chamber. A pair of	The architrave to the chamber	H	

	pivoted timber frame glazed doors. The glazing consists of one sheet of stippled glass. Each leaf has a pair of chromed pull handles in the arts and craft art deco blended style	appears to be original in its style the door leaves and architraves to the hall hardware and glass appear to date from 1940		
Baptismal immersion pool	At the west end fitted full immersion baptismal pool in masonry. The exterior is lined in timber panelling in character matching the door set at the east end. The sides are rendered and painted. The interior is tiled out in glazed white brick tiles on the walls and hexagonally tiles on the floor the steps at either end and the coping are lined in Carrara marble there is a large chrome tap, Chromed floor waste and rubber plug with a bronze counterweight. On the outside is a crudely built mobile set of three steps in timber	1940	H	


				
Reading desk	Located on the forward platform is a Polished Australian cedar reading desk in the Victorian Gothic revival style. The shelf has been augmented by a velvet covered mounted top.	Mid to late 19 century with 1930s top	H	


<p>Communion table</p>	<p>Located centrally on the main level of the platform a small timber communion table designed for the celebrant to be on the rear side. Constructed of English oak the front is presented as three panels with carved arts and crafts tracery and floral design. The text presented in Arts and Crafts lettering is this "do in remembrance of me". On the top is a heavy glass sheet under which are two brass plaques that read as follows:</p> <ol style="list-style-type: none"> 1. "To the glory of God and in sacred memory of Muriel M Chriswick A member of this church and Bible school for 17 years. Called to higher service 17th of January 1938. A tribute of love from her sister in Christ Dorothy L Giles. 5th February 1939" 2. "To the glory of God / In loving memory of our dear sister / Dorothy Giles / A member of Marrickville church for 47 years / Raised to higher service / 7th October 1968 / A tribute of love from her family" 		<p>H</p>	
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Side table	Currently placed on the raking floor a small side table oak, with panels very similar but not identical to the communion table. Evidence of a glass top now missing. A brass plaque reads: "In loving memory of / Hazel May Linford/Died 27 August 1944. / Albert Henry Linford./ Died 17th November, 1954. / Albert John Linford (RAAF)Died 4 January 1945. / Victory in death."	1930s or 40s	H	
Pew	Queensland or Pacific Maple, Loose but and located against the east wall.		M	
Hall interior				
Ceiling	Tent form 19 hardboard with half round timber cover beads. Three ventilating panels in the flat	1950s	L	



	section trimmed in mould and timber architraves and the main grill in pressed metal			
Walls	Hardboard with rounded timber cover batons	1950s	L	
Skirting	Timber chamfered 25 x 50 19 quad to the floor	1950s	L	
Floor	Masonite	1950s?	L	
Lights	Seven fluorescent light fittings on the fact of the ceiling	1950s	N	
Stage	On the south side are proscenium stage in timber and hardboard details to match the interior of the room sliding doors at the back of the stage admit to a backstage	1950s	L	
Cupboards	In the west wall bank of eight cupboards fitted into the stud framing with flush plywood doors and original chrome and plastic pushbutton knobs. One door appears to have been reversed no badly damaged it has lost its facing	1950s	L	
Noticeboard	On the west wall solid timber and plywood dark stained	1950s	L	
Doors	Four on the east wall one on the south. Solid timber repainted jam lining, bullnose architrave, hollow core framed extra thick doors. Chrome plated hardware. Steel hinges	1950s	L	
Windows	Three in north wall one in the west wall Timber box frame double hung. Bullnose architraves bullnose still bored quad bad mould. Separate glass timber and aluminium venetian blinds	1950s the Venetian blinds on one of the windows is the 1950s but on three of them	L	






		would be late 20th century		
Windows	South wall above stage. Solid frame three Awning hung sashes. Square architrave Rope and chrome painted opening mechanism Curtain on continuous aluminium track across all three	The curtain 1950s The curtain and track maybe late 20th century There is a pulley system so that all indicating all three windows were open with the one were integrated into one system.	L	
Store room, kitchen, lavatories, rear vestibule, backstage,				
Ceiling generally	Hardboard with timber semicircular cover battens	1950s	L	
Walls generally	Hardboard with timber semicircular cover battens. External walls are rendered masonry	1950s	L	
Lights generally	Ceiling mounted plastic batten holder on timber mounting block	1950s	L	
Floors generally	Timber framed cypress pine flooring 90 mm	1950s	L	
Fitments	The storeroom has and coat hook board fitted mirror, decorative light fitting In the lavatories fitted cupboards matching the style of those in the whole cast iron enamelled basins, chromed coat hooks, porcelain lavatory sets, Moravian tiles, fitted mirrors		L	

	In the kitchen fitted cupboards and stainless-steel sink detail rails laminate splashback, fitted shelf unit, fitted server unit with passthrough with sliding door, medicine cabinet In the back passage linoleum on the floor In the backstage a two large doors hung onto sliding mechanism to open into the stage In the external doors to outside threshold Double hung windows as for the whole			
Plaque	There is a plaque on the door to the backstage area: "This room is dedicated to the memory of / Gladys Pope / for many years beloved leader / of the youth of this church"		M	
Side entry				
Ceiling	Hardboard with square timber battens and 50 mm overflow corners	1940	M	
Walls	Rendered masonry with inscribed dado at window height	1940	M	
Floor	Suspended timber not seen		M	
Carpet	Broadloom blue	Late 20th century	N	
Doors to Street	Framed and sheeted solid rebated jamb lining square architrave chrome plated pull night latch, second deadbolt	1940 except for the night latch and deadbolt	M	

		which are late 20th century		
Fitted desk top	Adjacent to the front door a small timber inclined to top nicely detailed suspended off the wall clear finish	1940	M	
Hall at West End				
Ceiling	100 mm the jointed timber with 50 mm Scotia Cornice	Original	H	
Lights	Two, bakerlite cord grips woven cord pendant grip glass shade timber mounting block	Original	H	
Walls	Rendered masonry with incised dado. The walls are lined out in ashlar	Original	H	
Niche	On the east wall a shallow niche with a marble shelf and water piping. It would appear that there was this provision for a water heating device for the font the flu goes through the ceiling in a conscious way	Original. Water heater not current late 20th century	M	
Doors	As before described to external doors which match those that lead into the main chamber	Original	H	
Floor	Solid not seen		Unknown	
Carpet	Broadloom blue	Late 20th century	N	

Windows	In West wall three solid timber frame timber elbow lining chamfered and beaded timber architraves fixed coloured letter glass	Original	E	
Exterior				
Roof	Glazed terracotta tile Marseille pattern main building on the hall colour bond	Mid and Late 20th century	M	

Eaves gutters	Quad pattern colour bond	Late 20th century	L	
Eaves fascia	Timber 31 x 200 approximately beaded	Original	E	
Parapet	Face common brick with rendered cement moulded coping. The coping to the buttresses projects above the parapet and it's finished in moulded cement. The apex has a cement finial with a sphere on top.	Original	E	
Walls	Face common brick stretcher bond as for cavity construction. Cement rendered bands at the level of the door height window head eaves parapet base and upper parapet. The apex of the parapet is decorated with a panel of chequerboard floral designs carried out in render	Original	E	
Base	Face common solid brick in English bond with special moulded chamfered step in course	Original	E	
Front steps	Brick wall, rendered To wall, pipe handrail shapes with special and fitments to the post and the wall, marble trades and rises,	Original	H	
1940 entry porch	Face red brick with a Deco style stepped parapet to right side steps pipe handrail aluminium awning	1930s the awning maybe 1950s.	M	

Front fence	<p>Solid face brick piers and inside wall with bullnose. The piers are capped in Sydney sandstone quarry faced. Above the brick wall is a wrought steel decorative panel. Behind the fence is a brick planter box.</p> <p>There is a terrazzo tread at the gates.</p>	<p>The wall, tread M and gates appear to be 1930s. The planter box, 1950s.</p>	
Other	<p>To the former northern entry door the steps have been bricked up in common brickwork in the middle late 20th century</p>		
	Timber framed church sign board	1930s?	M

	Metal pipe signboard in front of the main windows	Late 20th century	I	
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IWLPP863/20 Agenda Item 1	Planning Proposal 389 Illawarra Road, Marrickville
Description	Planning proposal to amend the Marrickville Local Environmental Plan 2011 to include 389 Illawarra Road, Marrickville (Lots 4, 5 and 6, DP 2595) as an item of local heritage significance.
Proponent	Inner West Council

The following people addressed the meeting in relation to this item:

- Daniel Dwyer
- Graham Brooks
- Graham McKee

The Chair adjourned the Panel meeting at 12:48 pm to deliberate on the items and formulate recommendations.

DECISION OF THE PANEL

THAT the Inner West Planning Panel advise Council:

1. Approve the planning proposal to list 389 Illawarra Road, Marrickville as an item of environmental heritage for submission to the Department of Planning, Industry and Environment with a request for a Gateway determination.

The decision of the panel was unanimous.

Item No: C0620(3) Item 4

Subject: **PLANNING PROPOSAL - 36 LONSDALE STREET AND 64-70 BRENNAN STREET, LILYFIELD**

Prepared By: Aleksandar Kresovic - Strategic Planner

Authorised By: Elizabeth Richardson - Chief Operating Officer, Director Development & Recreation

RECOMMENDATION

THAT Council:

1. **Endorse and forward the amended Planning Proposal prepared by Council officers for 36 Lonsdale Street and 64-70 Brennan Street, Lilyfield for the reasons set out in Attachment 1 to the Department of Planning Industry and Environment (DPIE) for a Gateway determination under section 3.34 of Environmental Planning and Assessment Act 1979;**
2. **Request delegation of the plan-making functions for this planning proposal to the Chief Executive Officer; and**
3. **Following receipt of a favourable Gateway Determination, place the planning proposal on public exhibition to comply with the requirements of that Determination and as well as Council receiving a post exhibition report for its consideration.**

DISCUSSION

In February 2020, Council received a new planning proposal (**Attachment 4 & 5**) for 36 Lonsdale Street and 64-70 Brennan Street, Lilyfield to amend the Leichhardt Local Environmental Plan 2013 (LLEP 2013) by:

- Increasing the maximum Floor Space Ratio (FSR) from 0.6:1 to 2:1; and
- Introducing a maximum building height control of RL 33.2 (6 storeys).

In October 2019 after considering 1 neighbour's overshadowing and overlooking concerns, Council declined to support a previous proposal for this site and requested preparation of a new proposal. Council officers' assessment (**Attachment 1**) concluded that the proponent's February 2020 proposal did address these particular issues but continued to have excessive bulk and scale impacts on the surrounding area.

Council officers believe that the site can sustain a more modest development and presented an amended alternative planning proposal (**Attachment 2**) to the 4 June 2020 Inner West Local Planning Panel (IWLPP) meeting proposing:

- A maximum FSR – 1.5:1;
- A maximum height of buildings – RL 33.2 (5 storeys); and
- Addition of the site as a key site with a site-specific clause for minimum setbacks, a maximum number of storeys, objectives and non-residential uses at City West link street level.

The Council officer's planning proposal aligns with relevant strategic plans, including the Greater Sydney Region Plan, Eastern City District Plan, Council's Local Strategic Planning Statement and Local Housing Strategy.






The IWLPP meeting minutes (**Attachment 3**) advise the Council to support the Council officer's amended planning proposal.

The February planning proposal is supported by a Planning Agreement offer. Subject to Council approval, the draft Planning Agreement would be exhibited at the same time as a Gateway endorsed planning proposal.

Council should submit the Council officers' planning proposal to the Department of Planning Industry and Environment (DPIE) for a Gateway determination.

Attachments 2, 4 and 5 have been published separately in the Attachments Document on Council's Website <https://www.innerwest.nsw.gov.au/about/the-council/council-meetings/current-council-meetings>

ATTACHMENTS

1.  Planning Proposal - 36 Lonsdale Street and 64-70 Brennan Street Lilyfield
2.  Council Officer Planning Proposal – **Published separately**
3.  Inner West Local Planning Panel minutes - 4 June 2020
4.  Proponent's Original Planning Proposal - February 2020 - **Published separately**
5.  Proponent's Architectural Concept Plans - February 2020 - **Published separately**

<h2>INNER WEST</h2> <h3>COUNCIL OFFICER'S PLANNING PROPOSAL ASSESSMENT REPORT</h3>	
Planning Proposal No.	IWC_PP_2018_03
Address	36 Lonsdale Street and 64-70 Brenan Street, Lilyfield
Proposal	<p>Planning proposal to amend <i>Leichhardt Local Environmental Plan 2013</i> to:</p> <ul style="list-style-type: none"> • Increase the floor space ratio (FSR) from 0.6:1 to 1.5:1; • Introduce a maximum building height development standard of RL 33.2, • Add a site-specific clause for objectives, minimum setbacks, maximum number of 5 storeys and non-residential development at City West Link street level.

1.0 BACKGROUND

A series of development applications (DA), pre-planning proposals, planning proposals and a road closure application have been lodged for the site or parts of the site since 2015 as summarised below:

- **February 2015** – 36 Lonsdale Street, DA for a ground floor mixed use retail development and apartments above with an FSR of 2.44:1 refused for overdevelopment, loss of amenity and other issues such as non-compliance with SEPP 65.
- **May 2016** – 36 Lonsdale Street and 64-66 Brenan Street, Pre-Planning Proposal for a mixed use ground floor child care centre and retail development with apartments above, a 6 storey building height and an FSR ranging from 4.42:1 to 5.17:1. Council advised that the proposal would be overdevelopment, but that it was likely to support a more modest FSR increase with reasonable residential amenity and traffic impacts.
- **February 2018** – Application to Council to purchase and close the northern section of Lonsdale Street to facilitate a larger development. Council refused on planning, traffic, pedestrian access and sewerage / stormwater grounds.
- **January 2019** – 36 Lonsdale Street and 64-70 Brenan Street, Planning Proposal for a residential development at with an FSR ranging from 0.6:1 to 2.15:1 and a building height of up to 6 storeys. Council officers assessed this as having excessive bulk and scale, but that a smaller increase in density for the site would be reasonable.
- **23 July 2019** – Council officer recommended an amended Planning Proposal with an FSR of 1.5:1, a building height of up to 5 storeys and other site specific controls for minimum setbacks and non-residential uses at City West Link street level to the Inner West Local Planning Panel (IWLPP). The IWCPP added some additional recommendations and advised Council to support this Planning Proposal.
- **8 October 2019** – Council declined to support the IWLPP / Council officer recommended Planning Proposal on the grounds of overlooking and overshadowing of adjacent properties to the south. Council also asked for a new Planning Proposal addressing these issues to be prepared.
- **5 February 2020** – Revised Planning Proposal submitted to address the Council's October 2019 resolution. Council officers assessed the new proposal as still having excessive bulk and scale. The amended design moved building height away from the southern boundary but the FSR range of 0.6:1 to 2:1 and a 6 storey building height was unchanged.
- **4 June 2020** – Council officers recommended an amended Planning Proposal to the IWLPP. This proposal addresses the 8 October 2019 Council concerns about overlooking and

overshadowing and has an FSR of 1.5:1, a building height of no more than 5 storeys along with other site specific details detailed in this report. The IWLPP made the following recommendation to Council – see Attachment 3 of the Council report for the IWLPP Minutes.

2.0 SITE AND SURROUNDING CONTEXT

The 2,145m² site (**Figure 1**) is zoned R1 Residential with a potential FSR of 1.5:1 through the active street frontage incentive in Clause 4.4A of LLEP 2013. The site is 6km west of the Sydney CBD and 50 metres west of the Lilyfield Light Rail Station.



Figure 1: Site Location

It is composed of seven (7) allotments with a mix of industrial, commercial and residential uses and buildings.

The site is on the edge of a low density residential neighbourhood with a ground floor IGA mixed use development to the east and City West Link to the north. The Catherine Street neighbourhood centre is 150 metres to the south-east and Leichhardt town centre 1.2km to the south-west. The site is well served by schools, the light rail station and the Catherine Street bus route.

The site is affected by noise from aircraft, traffic and light rail; it has acid sulphate soils and may be contaminated.

3.0 PROPONENT'S PLANNING PROPOSAL

The proponent primarily relied on architectural plans and illustrations (**Figures 2 and 3**) to justify the proposed height and FSR. The original February 2020 planning proposal was accompanied by a building envelope study. When amended documents responding to Council's initial assessment were submitted in March the envelope study was not updated.

Council officers concluded that the proponent's proposed FSR of 2:1 and a maximum building height of RL33.2m and 6 storeys would:-

- Result in excessive bulk and scale impacts on the surrounding area;
- Have unacceptable visual privacy impacts on adjoining properties to the south, (37 Russell Street and 34 Lonsdale Street);

- Be inconsistent with the Apartment Design Guide (ADG) and the design quality Principles of SEPP 65;
- Have adverse amenity impacts for properties to the south and for the proposed units that would face City West Link;
- Be inconsistent with Leichhardt Development Control Plan 2013 (LDCP 2013);
- Need to provide additional information on acoustic impacts, water cycle management (stormwater and flooding) and traffic impacts prior to public exhibition.



Figure 2: Proponent's original Planning Proposal at 2:1 and RL33.2m (Source: DRA, March 2020)



Figure 3: Proponent's original Planning Proposal at 2:1 and 6 storeys (Source: DRA, March 2020)

The updated Planning Proposal failed to demonstrate that its proposed increase to the FSR would not have an adverse impact on the surrounding area.

The Council officer amended Planning Proposal recommended by this report (**Attachment 2**) resolves the overlooking, adverse bulk and scale issues for the residential properties to the south.

4.0 COUNCIL OFFICER RECOMMENDED PLANNING PROPOSAL

This includes:

- a) A maximum floor space ratio of 1.5;
- b) A maximum height of buildings of RL 33.2 (no more than 5 storeys including a basement);
- c) Amending the Key Sites Map to identify the site; and
- d) The following new local provisions:
 - Controls for different maximum heights and minimum setbacks for buildings to achieve a sympathetic relationship with adjacent dwellings without adversely affecting the streetscape, character, amenity or solar access of surrounding land.
 - Development consent must not be granted unless the consent authority is satisfied that the development complies with the following:
 - (a) any proposed building is set back at least:
 - (i) 3 metres from the southern boundary adjoining 34 Lonsdale Street and 37 Russell Street, and
 - (ii) 3 metres from the northern site boundary adjoining City West Link, and
 - (iii) 4 metres from the eastern and western site boundaries to adjoining side streets.
 - (b) the height in storeys of any proposed building will not exceed:
 - (i) 2 storeys adjacent to 34 Lonsdale Street and 37 Russell Street to provide a suitable transition in built form and land use intensity.
 - (ii) 5 storeys including a partially above ground basement podium adjacent to the City West Link.
 - (c) only non-habitable residential uses and non-residential uses at street level fronting City West Link.

The recommended Planning Proposal would allow two (2) storey development next to the southern boundary, stepping up to a five (5) storey building on the City West Link boundary as illustrated in **Figures 4 and 5**. The 5 storey element includes a non-residential ground floor and 4 storeys of apartments.

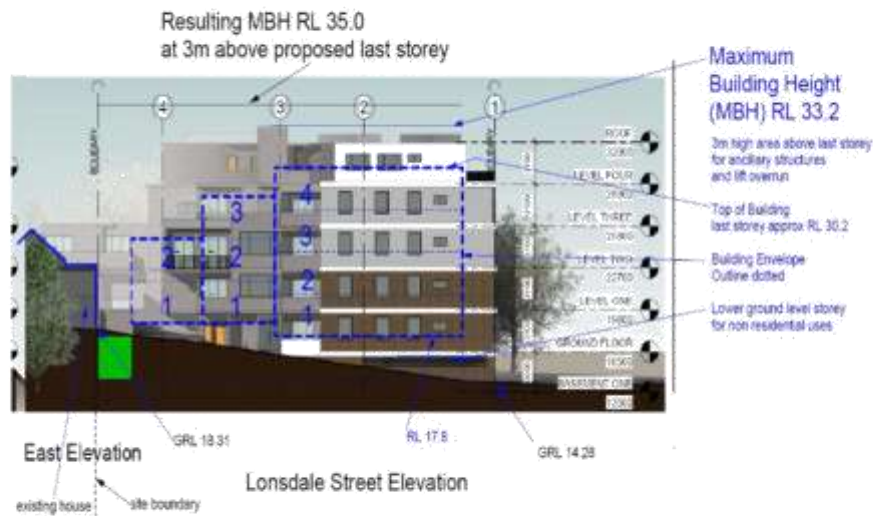


Figure 4: Council's concept design with a 1.5:1 FSR and reduced height of no more than 5 storeys (Source: annotated over DRA drawings by Council Officers)



Figure 5: Council's concept design with a 1.5:1 FSR and reduced height to no more than 5 storeys (Source: annotated over DRA drawings by Council Officers)

Figures 6 and 7 illustrate two building footprint options for how the Council officer's recommended FSR and height could be accommodated on the site.



Figure 6: Indicative site layout option 1 complying with proposed FSR and HOB. (Source Council Officers)



Figure 7: Indicative site layout option 2 with smaller apartments complying with proposed FSR and HOB. (Source Council Officers)

5.0 STRATEGIC MERIT ASSESSMENT OF THE RECOMMENDED PLANNING PROPOSAL

The Planning Proposal including the relevant supporting documentation for the original Proposal has been assessed against Greater Sydney Region Plan 2018, Eastern City District Plan 2018 and Council policies including the Local Strategic Planning Statement and the Local Housing Strategy.

The key assessment points are summarised below.

Urban Design

The reduction in FSR and building heights will reduce the excessive bulk and scale of the proponent's Planning Proposal thereby addressing the October 20th 2019 Council concerns about overlooking and overshadowing of two properties to the south.

These reductions combined with the proposed setbacks, deep soil planting buffers and 25% central communal open space will ensure that the development will not have significant urban design or amenity issues.

Land Use

No change to the land use zone is required. The R1 General Residential zone objectives regarding housing need, variety of house types, density and opportunities for working from home are met by the recommended Planning Proposal. The development is in the Local Housing Strategy Lilyfield East investigation area for between 310 and 330 new dwellings.

Traffic and Transport

The traffic report provided by the proponent has not fully addressed the potential increases in traffic entering and leaving the site from City West Link and in numbers of pedestrians and cyclists generated by the development. The proposed kerbside waste collection is not acceptable under Leichhardt Development Control Plan (LDCP) 2013.

6.0 LEICHHARDT DEVELOPMENT CONTROL PLAN 2013 (LDCP 2013)

The LDCP 2013 applies to the site and includes car parking, building height, landscaping, open space and character controls.

A draft site-specific Development Control Plan should be prepared by the proponent prior to public exhibition if a favourable Gateway is received from Department of Planning Industry and Environment. It should include the following specific design measures, controls and provisions: -

- A desired future character statement;
- Public domain measures and enhancements;
- Built form and design controls as follows: -
 - *Building height and bulk:* including a sympathetic building height transition from existing dwellings on Lonsdale and Russell Street up to 4 storeys above a ground level non-residential podium(5 storeys in total) facing City West Link;
 - *Building setbacks and articulation:* apartments oriented toward Lonsdale Street and Russell Street, with a dual aspect layout and cross ventilation, winter garden balconies to ameliorate noise and a middle quiet open space for apartments to face;
 - *Building separation:* to comply with ADG requirements;
 - *Building materials and finishes:* including architectural cues to complement adjacent houses in Lonsdale Street and Russell Street and the residential character of those streets. Exterior building finishes should use a variety of complementary materials to provide visual interest and strengthen sense of place. A monolithic building appearance will not be supported;
 - *Design of building elements* including a noise screen wall or similar device should be constructed between buildings along the northern part of the site. (e.g. a 3 storey wall and horizontal top return placed above the lower level non-residential storey);
 - *Disability access;* and
 - *Ground floor apartments* adjoining City West Link must not be used for residential uses,

although subject to detailed design at the DA stage they may be suitable as part of live work units.

- Residential amenity (including solar access, cross ventilation, open space, visual privacy, deep soil and podium planting landscaping areas). Deep soil provision should include:
 - a 3m wide perimeter deep soil setback for tree planting on the southern boundary;
 - a 3m wide perimeter deep soil setback along Lonsdale Street to establish front gardens;
 - a 3m wide deep soil setback for tree planting and landscaping along City West Link;
- Parking and access;
- Waste management; and
- 25% Communal open space.

7.0 CONCLUSION

The recommended Planning Proposal is consistent with the objectives of the LLEP and the reduced bulk and scale will ensure that amenity impacts will be acceptable.

It is consistent with Council's plans and strategies and passes the State government "Guide to preparing local environmental plans" Strategic Merit test. It is also consistent with the key objectives, priorities and actions of the Regional and District Plans as well as the relevant State Environmental Planning Policies and Ministerial Directions.

The Council Officer's amended Planning Proposal should be forwarded to the Department of Planning Industry and Environment for Gateway Determination with the following recommendations for Gateway Determination conditions to be met prior to public exhibition:

- a) A revised Urban Design Report prepared by the proponent to outline key development controls for the site including building height, FSR, building depth, building separation, building envelopes, deep soil zones and setbacks based on the recommendations of this report. This revised report must address relevant matters in *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* and the *Apartment Design Guide*, including overshadowing. These key development controls must be incorporated into site-specific DCP;
- b) A site-specific Development Control Plan prepared by the proponent to provide controls for the desired future character, public domain, residential amenity, parking and access, waste management and communal open space;
- c) An amended Traffic Impact Assessment prepared by the proponent to consider impacts of the proposed increased density on this site in relation to traffic flow along the City West Link and pedestrian safety at the intersection of Catherine Street and the City West Link.

Subject to the requirements of a favourable Gateway Determination the Planning Proposal, draft DCP and planning agreement should be exhibited for formal community and stakeholder consultation.



INNER WEST LOCAL PLANNING PANEL
MEETING

4 JUNE 2020

MINUTES

Item 4

Attachment 3

MINUTES of INNER WEST LOCAL PLANNING PANEL MEETING held by Skype for Business Teleconference on 4 June 2020.

Present: Adjunct Professor David Lloyd QC in the chair; Mr John McInerney; Ms Kath Roach, Ms Annelise Tuor.

Staff Present: Acting Strategic Planning Manager, Team Leader Strategic Planning, Executive Planner, Strategic Planners and Administration Officer.

Meeting commenced: 12:00pm

**** ACKNOWLEDGEMENT OF COUNTRY**

I acknowledge the Gadigal and Wangal people of the Eora nation on whose Country we are meeting today, and their elders past and present.

**** DECLARATION OF PECUNIARY INTERESTS AND NON-PECUNIARY INTERESTS**

There were no declarations of interest.

IWLPP863/20 Agenda Item 1	Planning Proposal 389 Illawarra Road, Marrickville
Description	Planning proposal to amend the Marrickville Local Environmental Plan 2011 to include 389 Illawarra Road, Marrickville (Lots 4, 5 and 6, DP 2595) as an item of local heritage significance.
Proponent	Inner West Council

The following people addressed the meeting in relation to this item:

- Daniel Dwyer
- Graham Brooks
- Graham McKee

The Chair adjourned the Panel meeting at 12:48 pm to deliberate on the items and formulate recommendations.

DECISION OF THE PANEL

THAT the Inner West Planning Panel advise Council:

1. Approve the planning proposal to list 389 Illawarra Road, Marrickville as an item of environmental heritage for submission to the Department of Planning, Industry and Environment with a request for a Gateway determination.

The decision of the panel was unanimous.

IWLPP864/20 Agenda Item 2	Planning Proposal 36 Lonsdale Street & 64 – 70 Brenan Street, Lilyfield
Description	Make amendments to the Leichhardt Local Environmental Plan 2013 to increase the floor space ratio from 0.6:1 to 1.5:1, introduce a maximum building height development standard of RL 33.2, addition of the site as key site and the addition of a site-specific clause for objectives, minimum setbacks, maximum number of storeys and non-residential development at street level adjoining City West Link.
Proponent	Derek Raithby Architecture

The following people addressed the meeting in relation to this item:

- Derek Raithby
- Scott Barwick
- Remolo Nigro

The Chair adjourned the Panel meeting at 12:48 pm to deliberate on the items and formulate recommendations.

DECISION OF THE PANEL

THAT the Inner West Planning Panel advise Council:

1. The proponent's planning proposal is not supported as it does not fully incorporate the recommendations of the IWLPP 23 July 2019 meeting in particular:
 - Inappropriate FSR and height controls which would result in excessive bulk and scale in relation to the surrounding residential area to the south and a desirable future character to the City West Link;
 - The proposed building is not set back at least 3 metres from the northern site boundary adjoining the City West Link;
 - The building adjacent to the adjoining low density residential area at No 34 Lonsdale Street and No 37 Russell Street is not 2 storeys and exceeds 5 storeys towards the northern boundary which does not provide a transition in built form and land use intensity between these different areas having particular regard to the transition between houses and other buildings;
 - The building exceeds 5 storeys including a basement podium partially out of ground; and
 - A lack of a site-specific development control plan, despite the proposal being inconsistent with provisions of the Leichhardt Development Control Plan 2013 (LDGP 2013).

2. That Council endorse the Planning Proposal prepared by Council Officers for the land at 36 Lonsdale Street and 64-70 Brenan Street, Lilyfield (as attached to the Planning Proposal Report) which seeks to amend the *Leichhardt Local Environmental Plan 2013* (LLEP 2013) in relation to the site by:
 - a) Amending the Floor Space Ratio Map (Sheet FSR_004) to reflect a maximum floor space ratio for the site of 1.5:1 and removal of the site from Area 6;
 - b) Amending the Height of Building Map (Sheet HOB_004) to reflect a maximum height of buildings for the site to RL 33.2 by adding the site to the RL 21m – 40m category;
 - c) Amending the Key Sites Map (Sheet KYS_004) by adding the site as Key Site 7;
 - d) Adding a site-specific Clause to Part 6 of LLEP 2013 generally as follows:
 - The objective of this clause is to facilitate the development of the land to which this clause applies by specifying controls for different maximum heights and minimum setbacks for buildings on the land to achieve a sympathetic building scale relationship with adjacent existing dwellings to the south and new appropriate form to City West Link, all to allow redevelopment without adversely affecting the streetscape, character, amenity or solar access of surrounding land.
 - Any proposed building is set back at least:
 - 3 metres from the southern boundary adjoining No 34 Lonsdale Street and No 37 Russell Street;
 - 3 metres from the northern site boundary adjoining the City West Link; and
 - 4 metres from the eastern and western site boundaries to adjoining side streets.
 - A maximum of 2 storeys adjacent to the adjoining low density residential area at No 34 Lonsdale Street and No 37 Russell Street then stepping to 5 storeys towards the northern boundary to provide a transition in built form and land use intensity between these different areas having particular regard to the transition between houses and other buildings.
 - 5 storeys including a basement podium partially out of ground
 - Development other than residential uses is proposed on the level located at street level along the northern boundary adjoining the City West Link.
 - Provision of communal open space within the development that maximises the amenity for the occupants, including noise impacts from the City West Link traffic, and minimises impacts on adjoining residents.

3. The Planning Proposal should be forwarded to the Minister for Gateway Determination with the following recommendations for Gateway Determination conditions to be met prior to public exhibition:
 - a) A revised Urban Design Report be prepared by the Proponent outlining key development controls for the site including building height, FSR, building depth, building separation, building envelopes, deep soil zones and setbacks based on the recommendations of this report. This revised report must address relevant matters in State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development and the Apartment Design Guide, including overshadowing. These key development controls must be incorporated into site-specific DCP;
 - b) A site-specific Development Control Plan be prepared by the proponent with controls for the desired future character, public domain, residential amenity, parking and access, waste management and communal open space; and
 - c) An amended Traffic Impact Assessment be prepared by the proponent which considers impacts of the proposed increased density on this site in relation to traffic flow along the City West Link and pedestrian safety at the intersection of Catherine Street and the City West Link.
4. That the Department of Planning, Industry and Environment be requested to delegate the plan making functions, in relation to the subject Planning Proposal, to Council.
5. Following receipt of a Gateway determination, and compliance with any conditions, the Planning Proposal and revised supporting documentation be placed on public exhibition for a minimum of 28 days and public authorities be consulted on the Planning Proposal in accordance with the Gateway determination.
6. A report be presented to Council at the completion of the public exhibition period detailing submissions received and the outcome of consultation with public authorities.

The decision of the panel was unanimous.

CONFIRMED:



Adjunct Professor David Lloyd QC
Chairperson
4 June 2020

Item No: C0620(3) Item 5

Subject: LOCAL TRAFFIC COMMITTEE MEETING - JUNE 2020

Prepared By: Manod Wickramasinghe - Traffic and Transport Planning Manager

Authorised By: Cathy Edwards-Davis - Director Infrastructure

RECOMMENDATION

THAT the Minutes of the Local Traffic Committee Meetings held in June 2020 be received and the recommendations be adopted.

ITEMS BY WARD

Ward	Item
Baludarri (Balmain)	Hartley Street, Rozelle - Proposed Resident Parking Scheme
Gulgadya (Leichhardt)	Croydon Road, Croydon - Bus priority infrastructure program Parramatta Road intersection improvements
	Illuminated sign outside Haberfield Rowers Club
Midjuburi (Marrickville)	Smidmore Street, Marrickville – Marrickville Metro Expansion Works – Temporary Full Road Closure for an 18 Hour Overnight Period – To Install a Pedestrian Bridge
	Smidmore Street, Marrickville – Marrickville Metro Expansion Works – Temporary Full Road Closure for a Two Week Period – To Undertake Road Upgrade Works
	Campbell Street, St Peters - (New M5 Local Roads) Proposed Parking Restrictions in angle parking car park
	Road safety around schools in Tempe
	Road safety at intersection of Stevens Lane and Fotheringham Lane, Marrickville
	Safety at the intersection of Edgeware Road, Alice Street and Llewellyn Street, Marrickville
Djarrawunang (Ashfield)	Nil. See All Wards.
Damun (Stanmore)	Road safety around Corunna Road, Westbourne Street and Cannon Streets, Stanmore
All Wards	Temporary extension of pedestrian and cycling space

DISCUSSION

The June 2020 meeting of the Local Traffic Committee was held remotely. The Agenda was sent to Committee members with a week to provide comments. The minutes of the meeting are shown at **ATTACHMENT 1**.

FINANCIAL IMPLICATIONS

Projects proposed for implementation are funded within existing budget allocations.

PUBLIC CONSULTATION

Specific projects have undergone public consultation as indicated in the respective reports to the Traffic Committee.

ATTACHMENTS

1. [Local Traffic Committee meeting minutes June 2020](#)

Minutes of Meeting of Local Traffic Committee Meeting

Held electronically in June 2020

ACKNOWLEDGEMENT OF COUNTRY BY CHAIRPERSON

I acknowledge the Gadigal and Wangal people of the Eora nation on whose country we are meeting today, and their elders past and present.

COMMITTEE REPRESENTATIVES PRESENT

Clr Victor Macri	Councillor – Midjiburi-Marrickville Ward (Chair)
Bill Holliday	Representative for Jamie Parker MP, Member for Balmain
Chris Woods	Representative for Ron Hoenig MP, Member for Heffron
Cathy Peters	Representative for Jenny Leong MP, Member for Newtown
Maryanne Duggan	Representative for Jodi McKay MP, Member for Strathfield
SC Tony Kenny	NSW Police – Inner West Police Area Command
Sgt Trudy Crowther	NSW Police – Burwood Police Area Command
Tanmila Samin Islam	Transport for NSW (TfNSW)

NON VOTING MEMBERS IN ATTENDANCE

Clr Marghanita da Cruz	Councillor – Gulgadya-Leichhardt Ward (Alternative Chair)
Manod Wickramasinghe	IWC's Traffic and Transport Planning Manager
Adrian Prichard	Transit Systems – Inner West Bus Services
Colin Jones	Inner West Bicycle Coalition
Christina Ip	IWC's Business Administration Officer

VISITORS

Nil.

APOLOGIES:

SC Stephen Flanagan	NSW Police – Leichhardt Police Area Command
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DISCLOSURES OF INTERESTS:

Nil.

CONFIRMATION OF MINUTES

The minutes of the Local Traffic Committee Meeting held in May 2020 were confirmed.

MATTERS ARISING FROM COUNCIL'S RESOLUTION OF MINUTES

The Local Traffic Committee recommendations of its meeting held in May 2020 were adopted at Council's meeting held on 26 May 2020.

EMAIL CONFIRMATION OF OFFICER'S RECOMMENDATION:

The representative for NSW Police – Inner West supported the Officer's recommendations for the items in their PAC.

The Transit Systems representative supported all the Officer's recommendations.

**LTC0620 Item 1 Croydon Road, Croydon - Bus priority infrastructure program
Parramatta Road intersection improvements
(Gulgadya-Leichhart Ward/ Strathfield Electorate/ Burwood PAC)**

SUMMARY

Transport for NSW (TfNSW) proposes to undertake improvements to the intersection of Parramatta Road, Arlington Street and Croydon Road to help improve turning paths and reduce conflict and congestion for buses and general traffic at this intersection. The proposal would also improve intersection capacity and efficiency, particularly on Croydon Road on the approach to the intersection, so vehicles can make better use of the lanes at the intersection.

Under this program, Bus stops either side of Croydon Road, just south of Parramatta Road, and Bus stops either side of Croydon Road at Australia Street will be amalgamated from 4 down to 2 stops. Lane and centreline marking will be extended in Croydon Road from Parramatta Road up to West Street and existing part-time 'No Stopping' restriction operational times will be extended.

Officer's Recommendation

THAT support be given for the following changes in Croydon Road, Croydon, in line with the RMS plan 2019/000987 as shown in Attachment 2.:

1. The Bus Stop (ID 213235) on the western side of Croydon Road, 30 metres south of Parramatta Road, be removed and the area be replaced with 'No Stopping' restrictions;
2. The Bus Stop (ID 213234) on the western side of Croydon Road, opposite Australia Street, be removed;
3. The Bus Stop (ID 213236) on the eastern side of Croydon Road, 65 metres south of Parramatta Road, be removed and the area be reassigned with 'No Parking' restrictions;
4. The Bus Stop (ID 213237) on the eastern side of Croydon Road, just north of Australia Street, be removed;
5. A 10 metre 'No Stopping' zone be installed on the eastern corner side of Croydon Road, north of Australia Street;
6. That a new 24m 'Bus zone' and 10m statutory 'No Stopping' be provided on the western side of Croydon Road, just south of Dalmar Street;
7. That a new 18.5m 'Bus zone' and 10m statutory 'No Stopping' zone be provided on the eastern side of Croydon Road, just south of Sunbeam Avenue;
8. The pedestrian (arm) crossing to the signals at the intersection of Croydon Road and Parramatta Road be widened, re-surfaced and re-line marked;
9. The part-time 'No Stopping' on the western side of Croydon Road, between Dalmar Street and Sophia Lane, be extended to operate in time from '6.30am-9.30am., 3.30pm-6.30pm M-F' to '6.00am-6.00pm M-F'; and
10. The existing lane marking (L1) and (BB) centerlines in Croydon Road be extended from Parramatta Road towards West Street.

DISCUSSION

The representative for the Member for Strathfield and the Burwood PAC representative requested that a right turn arrow, to assist movements from Croydon Road into Parramatta Road (city bound), be reconsidered by TfNSW to relieve congestion and prioritise city bound bus movements. Officers will forward this request to the TfNSW project manager for consideration.

Clr da Cruz asked Officers to comment on a request from the community that was referred to Council to consider line marking at Dalmer Street, Bay Street and Croydon Road to help prevent blocking of these intersections. Council Officers stated that "Do not queue across intersection" markings have typically not been supported by TfNSW except where it is perceived as an emergency access point (e.g. Fire Brigade, Police stations). It is noted that congestion at this location on Croydon Road is normally contained between Parramatta Road and Dalmar Street and this proposal seeks to reduce that congestion and hence reduce the frequency of the intersection being obstructed.

In response to a request from the community, Clr da Cruz asked if more measures could be implemented to encourage westbound drivers to stop behind the linemarking at traffic signals on Parramatta Road. Council Officers advised that appropriate linemarking setbacks and complementary traffic signal setbacks are generally the most appropriate way to alter motorist behaviour; however, they will seek advice from TfNSW regarding alternative strategies.

Clr da Cruz requested that TfNSW fund a safe pedestrian crossing point (pedestrian refuge or pedestrian (zebra) crossing) adjacent to the relocated bus stops, noting the walking distance to the signalised crossing of Croydon Road at Parramatta Road has increased to 150-200m due to this project. Council Officers will request the TfNSW project manager investigate this matter.

The Committee members agreed with the Officer's recommendation.

COMMITTEE RECOMMENDATION

THAT support be given for the following changes in Croydon Road, Croydon, in line with the RMS plan 2019/000987 as shown in Attachment 2.:

1. The Bus Stop (ID 213235) on the western side of Croydon Road, 30 metres south of Parramatta Road, be removed and the area be replaced with 'No Stopping' restrictions;
2. The Bus Stop (ID 213234) on the western side of Croydon Road, opposite Australia Street, be removed;
3. The Bus Stop (ID 213236) on the eastern side of Croydon Road, 65 metres south of Parramatta Road, be removed and the area be reassigned with 'No Parking' restrictions;
4. The Bus Stop (ID 213237) on the eastern side of Croydon Road, just north of Australia Street, be removed;
5. A 10 metre 'No Stopping' zone be installed on the eastern corner side of Croydon Road, north of Australia Street;
6. That a new 24m 'Bus zone' and 10m statutory 'No Stopping' be provided on the western side of Croydon Road, just south of Dalmar Street;

7. That a new 18.5m 'Bus zone' and 10m statutory 'No Stopping' zone be provided on the eastern side of Croydon Road, just south of Sunbeam Avenue;
8. The pedestrian (arm) crossing to the signals at the intersection of Croydon Road and Parramatta Road be widened, re-surfaced and re-line marked;
9. The part-time 'No Stopping' on the western side of Croydon Road, between Dalmar Street and Sophia Lane, be extended to operate in time from '6.30am-9.30am., 3.30pm-6.30pm M-F' to '6.00am-6.00pm M-F'; and
10. The existing lane marking (L1) and (BB) centerlines in Croydon Road be extended from Parramatta Road towards West Street.

For motion: Unanimous

LTC0620 Item 2 Smidmore Street, Marrickville – Marrickville Metro Expansion Works – Temporary Full Road Closure for an 18 Hour Overnight Period – To Install a Pedestrian Bridge (Midjuburi – Marrickville Ward / Newtown Electorate / Inner West PAC)

SUMMARY

Council has received an application from MLA Transport Planning (MLATP) for approval of a temporary full road closure of Smidmore Street, between Edinburgh Road and Murray Street, Marrickville for a period of 18 hours in order to install the pedestrian bridge connecting the existing and new Centres at Marrickville Metro.

Officer's Recommendation

THAT the proposed temporary full road closure of Smidmore Street, between Edinburgh Road and Murray Street, Marrickville for a period of 18 hours from 3:00pm on Wednesday, 1 July 2020 to 9:00am Thursday, 2 July 2020 (contingency period 2 weeks start date from Sunday 5 July 2020 – to 19 July 2020) be approved for the purpose of installing the pedestrian bridge connecting the existing and new Centres at Marrickville Metro subject to, but not limited to, the following conditions:

1. A Road Occupancy License be obtained by the applicant from the Transport Management Centre;
2. All affected residents and businesses, including the NSW Police Area Commander, Fire & Rescue NSW and the NSW Ambulance Services be notified in writing, by the applicant, of the proposed temporary full road closure at least 7 days in advance of the closure with the applicant making reasonable provision for stakeholders;
3. The occupation of the road carriageway must not occur until the road has been physically closed; and
4. Written concurrence being provided from Sydney Metro TSE Group to Council.

DISCUSSION

The Committee members agreed with the Officer's recommendation.

COMMITTEE RECOMMENDATION

THAT the proposed temporary full road closure of Smidmore Street, between Edinburgh Road and Murray Street, Marrickville for a period of 18 hours from 3:00pm on Wednesday, 1 July 2020 to 9:00am Thursday, 2 July 2020 (contingency period 2 weeks start date from Sunday 5 July 2020 – to 19 July 2020) be approved for the purpose of installing the pedestrian bridge connecting the existing and new Centres at Marrickville Metro subject to, but not limited to, the following conditions:

1. A Road Occupancy License be obtained by the applicant from the Transport Management Centre;
2. All affected residents and businesses, including the NSW Police Area Commander, Fire & Rescue NSW and the NSW Ambulance Services be notified in writing, by the applicant, of the proposed temporary full road closure at least 7 days in advance of the closure with the applicant making reasonable provision for stakeholders;
3. The occupation of the road carriageway must not occur until the road has been physically closed; and
4. Written concurrence being provided from Sydney Metro TSE Group to Council.

For motion: Unanimous

LTC0620 Item 3 Smidmore Street, Marrickville – Marrickville Metro Expansion Works – Temporary Full Road Closure for a Two Week Period – To Undertake Road Upgrade Works (Midjuburi – Marrickville Ward / Newtown Electorate / Inner West PAC)

SUMMARY

Council has received an application from MLA Transport Planning (MLATP) for approval of a temporary full road closure of Smidmore Street, between Murray Street and Marrickville Metro Dock 5 Access Driveway for a period of two weeks for the purpose of road works.

Officer's Recommendation

THAT the proposed temporary full road closure of Smidmore Street, between Murray Street and Marrickville Metro Dock 5 Access Driveway for a period of two weeks starting from Sunday, 12 July to Sunday, 26 July 2020 (contingency period Monday 27 July to Monday 10 August 2020) be approved for the purpose of road works subject to, but not limited to, the following conditions:

1. A Road Occupancy License be obtained by the applicant from the Transport Management Centre;
2. All affected residents and businesses, including the NSW Police Area Commander, Fire & Rescue NSW and the NSW Ambulance Services be notified in writing, by the applicant, of the proposed temporary full road closure at least 7 days in advance of the closure with the applicant making reasonable provision for stakeholders;
3. The occupation of the road carriageway must not occur until the road has been physically closed; and

4. Written concurrence being provided from Sydney Metro TSE Group to Council.

DISCUSSION

The Committee members agreed with the Officer's recommendation.

COMMITTEE RECOMMENDATION

THAT the proposed temporary full road closure of Smidmore Street, between Murray Street and Marrickville Metro Dock 5 Access Driveway for a period of two weeks starting from Sunday, 12 July to Sunday, 26 July 2020 (contingency period Monday 27 July to Monday 10 August 2020) be approved for the purpose of road works subject to, but not limited to, the following conditions:

1. A Road Occupancy License be obtained by the applicant from the Transport Management Centre;
2. All affected residents and businesses, including the NSW Police Area Commander, Fire & Rescue NSW and the NSW Ambulance Services be notified in writing, by the applicant, of the proposed temporary full road closure at least 7 days in advance of the closure with the applicant making reasonable provision for stakeholders;
3. The occupation of the road carriageway must not occur until the road has been physically closed; and
4. Written concurrence being provided from Sydney Metro TSE Group to Council.

For motion: Unanimous

LTC0620 Item 4 Campbell Street, St Peters - (New M5 Local Roads) Proposed Parking Restrictions in angle parking car park (Midjumburi - Marrickville Ward/Heffron Electorate/ Inner West PAC)

SUMMARY

With the completion of the New M5 local roadworks in St Peters and the handover of the landscaped verges and on-street and off-street carparking spaces along Campbell Street, St Peters, Council has explored options to manage the new 26 space off-street angle parking in Campbell Street between Florence Street and St Peters Street, to best benefit the community and potential users. Local businesses and residents were consulted regarding what suitable timed-parking restrictions ought to be in place.

Officer's Recommendation

THAT the following restrictions be approved for the new 26 space off-street angle parking spaces adjacent to Campbell Street between Florence Street and St Peters Street;

1. Installation of '4P 6.00am – 6.00pm' zone along the 12 angle parking spaces from the western end;
2. Installation of 'P30 8.00am – 9.30am, 2.30pm – 4.00pm school days' & '4P 9.30am-2.30pm school days, 6.00am – 6.00pm other days' along the 12 angle parking spaces from the eastern end, excluding the mobility parking spaces; and

INNER WEST

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3. Installation of 'Mobility Parking Only' along the 2 disabled angle parking spaces from the eastern end.

DISCUSSION

The representative for the Member for Heffron requested that these restrictions be implemented as a matter of urgency to assist return to school arrangements.

The Committee members agreed with the Officer's recommendation.

COMMITTEE RECOMMENDATION

THAT the following restrictions be approved for the new 26 space off-street angle parking spaces adjacent to Campbell Street between Florence Street and St Peters Street;

1. Installation of '4P 6.00am – 6.00pm' zone along the 12 angle parking spaces from the western end;
2. Installation of 'P30 8.00am – 9.30am, 2.30pm – 4.00pm school days' & '4P 9.30am-2.30pm school days, 6.00am – 6.00pm other days' along the 12 angle parking spaces from the eastern end, excluding the mobility parking spaces; and
3. Installation of 'Mobility Parking Only' along the 2 disabled angle parking spaces from the eastern end.

For motion: Unanimous

LTC0620 Item 5 Hartley Street, Rozelle - Proposed Resident Parking Scheme (Baludarri-Balmain Ward/Balmain Electorate/Leichhardt PAC)

SUMMARY

Council has finalised an investigation into a Resident Parking Scheme (RPS) to address issues with long term parking by non-resident vehicles in Hartley Street, Rozelle between Brent Street and Victoria Road.

Officer's Recommendation

THAT a '2P 8am-10pm Mon-Fri, Permit Holders Excepted, Area R1' parking restriction be installed on both side of Hartley Street, on the frontage of residential houses in Hartley Street between Brent Street and Victoria Road, Rozelle.

DISCUSSION

The Committee noted that the Officer's recommendation incorrectly stated that the RPS will operate between 8am and 10pm. The RPS proposal had been consulted to operate between 8am and 6pm to be consistent with adjacent streets. It was agreed that the recommendation be amended accordingly.

Councillor da Cruz asked if visitor permits are available to residents who do not own a car. Council officers confirmed that all eligible properties will be entitled to visitor permits.

COMMITTEE RECOMMENDATION

THAT a '2P 8am-6pm Mon-Fri, Permit Holders Excepted, Area R1' parking restriction be installed on both sides of Hartley Street, on the frontage of residential houses in Hartley Street between Brent Street and Victoria Road, Rozelle.

For motion: Unanimous

General Business

LTC0620 Item 6 Road safety around schools in Tempe

The representative for the Member for Heffron tabled a letter requesting for an investigation into changes to improve student safety and access for school buses around the schools in Tempe, in response to a bus colliding with the retaining wall at Tempe Public School on 18 February 2020.

LTC0620 Item 7 Illuminated sign outside Haberfield Rowers Club

The representative for the Member for Balmain asked for an update to the enquiry made at the May 2020 meeting regarding the glare from the Haberfield Rowers Club illuminated sign on the City West Link. Council Officers advised that this matter had been referred to Council's Compliance team and results of their investigation will be provided when available.

LTC0620 Item 8 Road safety at intersection of Stevens Lane and Fotheringham Lane, Marrickville

The representative for the Member for Newtown stated that a resident made representations to the Office of Jenny Leong MP regarding safety at the intersection of Stevens Lane and Fotheringham Lane, Marrickville. The resident stated that drivers aggressively use the laneways as rat runs while residents walk or ride bikes with children. The representative requested that Council investigate providing extra measures to improve safety at this intersection. In addition, Council was requested to review Council's policies on laneways in the LGA with a view to implementing speed restrictions and traffic calming measures on all of them to improve safety for residents.

LTC0620 Item 9 Road safety around Corunna Road, Westbourne Street and Cannon Streets, Stanmore

The representative for the Member for Newtown asked for an update on the investigation into concerns raised by a resident in 2019 regarding vehicles using the back streets of Corunna Road, Westbourne Street and Cannon Streets to avoid Parramatta Road and the lack of pedestrian crossings in these streets. At the time these concerns were raised, Council Officers had indicated that the resident's concerns and request would be considered in the next Local Area Traffic Management Scheme review for Stanmore North – Area 2.

LTC0620 Item 10 Safety at the intersection of Edgeware Road, Alice Street and Llewellyn Street, Marrickville

In reference to concerns raised at the February 2020 meeting, the representative for the Member for Newtown asked for a progress update on the investigation to improve safety at the intersection of Edgeware Road, Alice Street and Llewellyn Street, Marrickville,.

LTC0620 Item 11 Temporary extension of pedestrian and cycling space

The representative for the Member for Newtown has requested information on the areas in Inner West that will be temporarily extended to provide more pedestrian and cycling space as a result of the coronavirus emergency.

This concluded the business of the meeting.

Item No: C0620(3) Item 6
Subject: 17 NORTON STREET, ASHFIELD
Prepared By: Daryl Jackson - Chief Financial Officer
Authorised By: Michael Deegan - Chief Executive Officer

RECOMMENDATION

THAT Council:

1. Approves the sale of 17 Norton Street, Ashfield by Council pursuant to s.713(2)(a) of the Local Government Act 1993; and
2. Authorises the CEO to undertake all actions and negotiation in relation to the sale including the setting of a reserve price and signing all relevant documents to complete the sale.

DISCUSSION

The property at 17 Norton Street, Ashfield currently has outstanding rates in the order of \$12,941.82. Rates have been outstanding for more than 5 years.

The property is a residual vacant lot of 28m² sitting between 9 Victoria Street and 19 Norton Street Ashfield. There is an existing right of way to 1-7 Victoria Road at the rear.

The property is owned by The Estate of the Late Charles Clarence Gale. Mr Gale died in 1958 and preliminary searches by Council's Legal Team have not ascertained a current beneficiary/owner. The cost to undertake additional searches will likely outweigh the value of the property and the amount of overdue rates.

FINANCIAL IMPLICATIONS

If the property is sold, Council will be able to recover all or part of the overdue rates and going forward rates will be charged to the new owner

ATTACHMENTS

1. [17 Norton Street, Ashfield](#)

Memorandum

To: Michael Deegan, CEO
From: Daryl Jackson, Chief Financial Officer
Date: 26 May 2020
Subject: Sale of 17 Norton Street, Ashfield

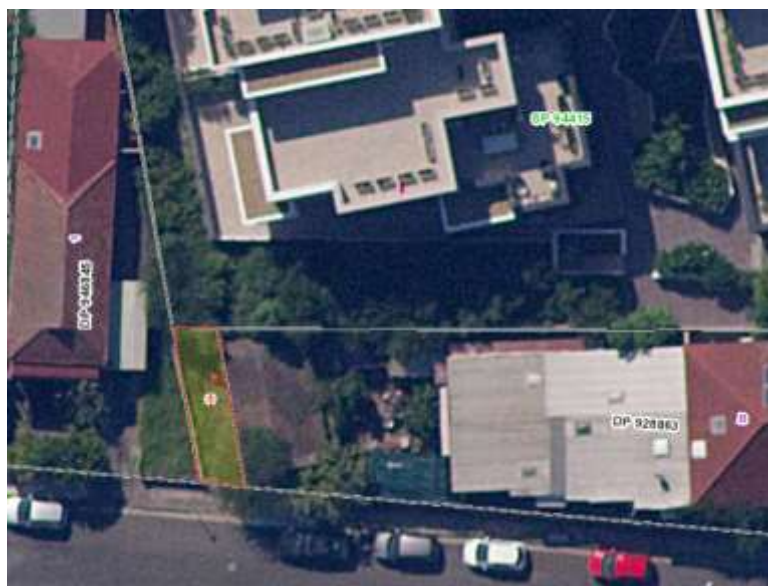
Recommendation

That Council approves the sale of 17 Norton Street, Ashfield by Council pursuant to s.713(2)(a) of the Local Government Act 1993.

Background

In late 2018, the Legal and Finance Teams began a joint project to look at the recovery of overdue rates. The property at 17 Norton Street, Ashfield (highlighted yellow below) was identified by Finance as having outstanding rates in the order of \$12,941.82. Rates have been outstanding for more than 5 years.

17 Norton Street is a vacant lot approx. 28m² sitting between 9 Victoria Street and 19 Norton Street. There is an existing right of way to 1-7 Victoria Road at the rear.



Current Owner

The property was listed as part of 9 Victoria Street until 10 March 2009. At that time, Council was advised by the Valuer-General that the lot had been identified as a residual lot from the original subdivision and the legal owner was the Estate of the Late Charles Clarence Gale. Council transferred the property into that name as of 12 March 2009 and started levying rates. No rate payment has been received since rates commenced being levied on 12 March 2009.

The Legal team have undertaken enquiries to identify any person who may have an interest in the property. It has been established that Mr. Charles Clarence Gale died in 1958 aged 108 years. Under his will, all his property was to be sold and the proceeds distributed amongst his 5 grandchildren. Given this, the likelihood of tracking down a person with interest in the estate would be extremely challenging and, in any event, the cost of such an exercise would most likely exceed the expected realisation of the sale.

Sale Prospects

It is noted that Council has received interest from Mr. Kevin Lam, who has an approved DA to construct a boarding housing at 9 Victoria St Ashfield (the adjacent property), to purchase 17 Norton Street Ashfield. A sale by Council directly to Mr Lam is not possible as s.716 of the Act requires any sale must be by advertised public auction. However, Mr Lam's interest does indicate a sale may be possible if the property is sold by Council.

Cost

The expected costs associated with such a sale are set out below.

EXPENSE	COST
Valuation	\$800
Notification/Adverting Costs	\$1500
Auctioneer	\$500
Agent Commission	\$800

It is hoped the sale price will cover the sale costs and the outstanding rates.

Conclusion

Rates have been outstanding on the property for more than 5 years triggering Council's ability to sell the property under the Act. There is little prospect in recovering the unpaid rates or receiving future rate payments from the current owner. We are further satisfied that Council has complied with its obligations under the Act to take reasonable steps to identify any person with an interest into the property.

It is recommended to seek Council approval for the sale of 17 Norton Street Ashfield for unpaid rates in accordance with s.713(2)(a) of the Act.

Sincerely,

Daryl Jackson, Chief Financial Officer

Item No: C0620(3) Item 7

Subject: **PRECINCT 75, ST PETERS VOLUNTARY PLANNING AGREEMENT PUBLIC EXHIBITION**

Prepared By: Bojan Sodic - Strategic Investments Manager

Authorised By: Elizabeth Richardson - Chief Operating Officer, Director Development & Recreation

RECOMMENDATION

THAT Council enter into the Voluntary Planning Agreement for Precinct 75, St Peters, as provided in Attachment 1 to this report.

DISCUSSION

The Voluntary Planning Agreement was publicly exhibited for 28 days from 25 May to 21 June 2020. This public exhibition was undertaken by Council in accordance with Council resolution.

A total of 40 submissions were received and a total of 13 related to the VPA on Council's YSIW as of the 10th June 2020.

An update on submissions will be provided prior to the Council meeting. A summary of the submissions received during the exhibition period are provided in the Engagement Outcomes Report which will be available from 22 June 2020 here: <https://yoursay.innerwest.nsw.gov.au/precinct-75-st-peters-voluntary-planning-agreement/widgets/294653/documents>

The top three themes in the comment section related to:

- The amount of monetary contributions allocated to affordable housing
- Method of assessing contributions
- Amount of open space provided in VPA

Information about the voluntary planning agreement was made available via Your Say Inner West; yoursay.innerwest.nsw.gov.au. People could provide feedback:

- Online via Council's Your Say Inner West (YSIW) engagement hub
- By mail

This was promoted through Council's social media and website.

Background

The site is located at 67, 73-83 Mary, 50-52 Edith & 43 Roberts Streets, St Peters. The total site area is approximately 15,200 square metres. The site is located within a predominantly residential area, characterised by one and two storey developments.

The Planning proposal seeks the following:

- Rezoning from IN2 Light Industrial & R2 Low Density Residential to B4 Mixed Use;
- A Maximum Floor Space Ratio (FSR) of 2.20:1;
- A range of Maximum Building Heights, varying from 3 metres, 17 metres, 20 metres and 23 metres to 29 metres; and

- A number of site-specific administrative changes to facilitate redevelopment of the Site.

As Council did not support the planning proposal, it is now in its final stages of assessment by the Department of Planning.

In 2018, the landowner had negotiated the terms of a public benefit offer to executed in the form of a planning agreement. Council proposed a value capture methodology and engaged a valuer who established the value. HillPDA have undertaken a valuation which is dated 7th September 2017. This valuation assessed the 50% of the value uplift due to the Planning Proposal at \$5,160,000. The valuation was undertaken near the peak of the market and would still be the current market value especially under the current economic climate. The public benefit and associated value includes:

- Dedication of fully fitted out Artist Studios of more than 239m² in size; **Value: \$3,500,000**
- Central open public space of more than 600m² in size. An artist's impression of the central public space is provided below; **Value: \$500,000**
- Pocket Park open space on Roberts Street; **Value: \$250,000**
- At least half of the monetary contribution of \$2,000,000 to be used for affordable housing or public domain upgrades be used for affordable housing by way of contribution to the affordable housing fund. **Value: \$2,000,000**

Total VPA value = **\$6,250,000**

The proponent will be providing \$6,250,000 worth of public benefit within the Voluntary Planning Agreement which is significantly more than the 50% uplift in land value as assessed by HillPDA. Council has worked very hard to keep this offer current as there will be no provisions within the planning approval (provided by the State Government) which will state that the proponent must enter into a VPA with Council. If Council doesn't accept this proposal, the proponent will not provide any additional public benefit for this development.

ATTACHMENTS

1. [↓](#) Precinct 75 - VPA



DRAFT Planning Agreement – 75 Mary Street, St Peters

JVM Holdings Pty Ltd ACN 108 640 642 as trustee for the JVM Family Trust

Chalak Holdings Pty Ltd ACN 108 830 084 as trustee for the Chalak Family Trust

Inner West Council
ABN 19 488 017 987

DRAFT FOR EXHIBITION 19.5.20

Level 12, 60 Carrington Street
Sydney NSW 2000 Australia

GPO Box 1433 Sydney
NSW 2001 Australia

Telephone +61 2 8915 1000
www.addisons.com

Ref: PLM
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THIS AGREEMENT is made on

BETWEEN JVM Holdings Pty Limited ACN 108 640 642 as trustee for the
JVM Family Trust

Chalak Holdings Pty Ltd ACN 108 830 084 as trustee for the Chalak
Family Trust
(Land Owner)

AND Inner West Council
ABN 19 488 017 987
of 2-14 Fisher Street, Petersham NSW 2049
(Council)

RECITALS

- A. The Land is owned by the Land Owner.
- B. The Land Owner has lodged a Planning Proposal seeking a change to the
Marrickville Local Environment Plan 2011.
- C. The Planning Proposal, if approved by the making of the Amending LEP, will,
amongst other things, permit with development consent a range of commercial,
community and residential uses.
- D. This Agreement reflects the offer made and accepted by Council for public benefits
to be delivered if development is carried out relying on the Amending LEP.

IT IS AGREED

1. OPERATIVE PROVISIONS

1.1 Planning Agreement under the Act

The Parties agree that this Agreement is a planning agreement pursuant to section
7.4 of the Act.

1.2 Scope and Application of this Agreement

- (a) This Agreement applies to the:
 - (i) Land;
 - (ii) Planning Proposal; and
 - (iii) Proposed Development.
- (b) This Agreement binds the Parties and applies to the Land on which the
Proposed Development is to be carried out.

1.3 This Agreement does not exclude the application of sections 7.11 and 7.12 of the
Act in connection with the Development Application and the Development Consent
for the Proposed Development

1.4 Operation

This Agreement becomes operative from the date that the Amending LEP
commences as an environmental planning instrument in accordance with section
3.24) of the Act except for clauses 1, 2 and 3 which are effective and binding on the
Parties from the date that this Agreement is executed.

1.5 This Agreement terminates upon the earlier of:

- (a) provision of all of the Public Benefits by the Land Owner;
- (b) an effective Court declaration or order that the Amending LEP is invalid; or
- (c) termination pursuant to the terms of this Agreement.

- 1.6 In the event that the Planning Secretary decides at any time not to make the Amending LEP under section 3.36(b) of the Act and informs a party in writing of that decision, then either party may terminate this Agreement by not less than 28 days' notice to the other.
- 1.7 In the event that this Agreement is terminated under clause 1.5 or 1.6, the Council agrees to promptly cooperate with the Land Owner in the removal of any caveat or registration of this Agreement on the title to the Land.

2. DEFINITIONS AND INTERPRETATION

2.1 Definitions

In this Agreement, unless the context clearly indicates otherwise:

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

Address for Service means the address of each party appearing in Item 5 of Schedule 1 or any new address notified by any party to all other Parties as its new Address for Service.

Amending LEP means a local environmental plan that applies to the Land and amends Marrickville LEP as contemplated in the Planning Proposal.

Approval means any approvals, consents, certificates, permits, endorsements, licences, conditions or requirements (and any modifications or variations to them) which may be required by law or an Authority.

Artist Studios means artist studios with a cumulative area (including shared toilet facilities) of approximately 239 m² located within the ground floor of the proposed building marked for Artist Studios on the Public Benefits Plan.

Authority means any Federal, State or local government or semi-governmental, statutory, judicial or public person, instrumentality or department and includes a certifier accredited under Part 6 of the Act.

Business Day means any day that is not a Saturday, Sunday, gazetted public holiday or bank holiday in Sydney, and concludes at 5:00pm on that day.

Central Open Space means that part of the Public Open Space marked Central Open Space in the Public Benefits Plan.

Completion is that stage in the execution of the Land Owner's Works or relevant part when the Land Owner's Works are complete except for minor Defects:

- (a) which do not prevent the Land Owner's Works from being reasonably capable of being used for their intended purpose;
- (b) which the Land Owner has reasonable grounds for not promptly rectifying; and
- (c) rectification of which will not prejudice the convenient use of the Land Owner's Works.

Construction means and includes design, engineering fabrication and building work required to physically erect or install the relevant structure or other.

Construction Certificate has the same meaning as in the Act.

Costs means the costs of and directly attributable to the performance of the Land Owner's Works including:

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- (a) preparation of design and construction drawings for the relevant works;
- (b) geotechnical, engineering or other expert or consultant advice;
- (c) costs of approvals;
- (d) costs of materials used or installed (as the case may be)
- (e) labour, equipment hire and other costs associated with excavation, construction and remediation.

Court means the New South Wales Land and Environment Court or any other court of competent jurisdiction.

Dealing means selling, transferring and assigning. For the avoidance of doubt it does not include leases, sub-leases, licenses, sub-licences, mortgages, charges and any other dealing in connection with the financing of the Land or the Proposed Development. **Deal** has the same meaning.

Deed of Novation means the Deed identified in **Schedule 4**.

Defect means any error, omission, shrinkage or blemish in appearance or other fault in the Land Owner's Works caused by the Land Owner, its employees, agents or contractors, which prevents the Land Owner's Works from being reasonably capable of being used for their intended purpose but excludes any damage caused to the Land Owner's Works by a third party (other than the Land Owner's employees, agents or contractors) and fair wear and tear as a result of use of these facilities.

Defects Liability Period means the period of 12 months from the date on which the Land Owner's Works or a part of the Land Owner's Works reach Completion.

Development Application has its meaning as in the Act.

Development Consent has its meaning as in the Act.

Government Agency means:

- (a) a government or government department or other body;
- (b) a governmental, semi-governmental or judicial person; or
- (c) a person (whether autonomous or not) who is charged with the administration of a law.

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.

Guarantee means an irrevocable unconditional bank guarantee or documentary performance bond which must:

- (a) be denominated in Australian dollars;
- (b) be an unconditional undertaking;
- (c) be signed and issued by a bank licensed to carry on business in Australia, an Australian Prudential Regulation Authority (APRA) regulated authorised deposit taking institution or an insurer authorised by APRA to conduct new or renewal insurance business in Australia having at all times an investment grade security rating from an industry recognised rating agency of at least:
 - (i) BBB + (Standard & Poors and Fitch);

- (ii) Baa 1 (Moody's); or
- (iii) Bbb (Bests);
- (d) be issued on behalf of the Land Owner;
- (e) have no expiry or end date;
- (f) state the beneficiary as the Council;
- (g) be irrevocable;
- (h) state the Guarantee Amount as the minimum amount required by this document to be lodged as security;
- (i) state the purpose of the security as required in accordance with this document; and
- (j) be on such other terms approved by the Council.

Index Number means the Consumer Price Index (Sydney all groups) published by the Australian Bureau of Statistics from time to time.

Insolvency Event means:

- (a) having a controller, receiver, manager, administrator, provisional liquidator, liquidator or analogous person appointed;
- (b) an application being made to a court for an order to appoint a controller, provisional liquidator, trustee for creditors or in bankruptcy or analogous person to the person or any of the person's property
- (c) the person being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand;
- (d) an application being made to a court for an order for its winding up;
- (e) an order being made, or the person passing a resolution, for its winding up;
- (f) the person:
 - (i) suspending payment of its debts, ceasing (or threatening to cease) to carry on all or a material part of its business, stating that it is unable to pay its debts or being or becoming otherwise insolvent; or
 - (ii) being unable to pay its debts or otherwise insolvent;
- (g) the person taking any step toward entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors;
- (h) a court or other authority enforcing any judgment or order against the person for the payment of money or the recovery of any property; or
- (i) any analogous event under the laws of any applicable jurisdiction,

unless this takes place as part of a solvent reconstruction, amalgamation, merger or consolidation that has been approved by the other party.

Instrument means the terms of the instrument identified in Schedule 5, as amended in accordance with this Agreement.

Land means the land identified in Item 3 of **Schedule 1** of this Agreement, comprising the land the subject of this Agreement and the Planning Proposal.

Land Owner's Works means the provision of the Artist Studios to be undertaken by the Land Owner as set out in this Agreement and as refined and developed in accordance with this Agreement.

Marrickville LEP means the *Marrickville Local Environment Plan 2011*.

Monetary Contribution means an amount of \$2,000,000 payable to Council of which a minimum of 50% is to be used by Council for affordable housing and the remainder for public infrastructure in the vicinity of the Land.

Occupation Certificate has the same meaning as in the Act.

Party means a party to this agreement, and includes their successors and assigns.

Planning Proposal means the planning proposal to amend the Marrickville LEP with Department of Planning and Environment reference PGR_2016_MARRI_001_00 to:

- (a) rezone part of the Land from IN2 industrial and R2 Low Density Residential, to B4 Mixed Use;
- (b) increase the maximum floor space ratio from 0.6:1 and 0.95:1, to 2.2:1 across the Land; and
- (c) increase the maximum building height from 9.5m and no building height, to varying heights between 9.5m and 29m across the Land,

and subject to a Gateway Determination dated 10 October 2017 as amended by the proponent.

Principal Certifying Authority has the same meaning as Principal Certifier in the Act.

Proposed Development means the redevelopment of the Land into a mixed use precinct incorporating commercial, community and residential uses relying on the Amending LEP but excluding any subdivision of the Land.

Public Benefits Plan means the plan attached in Schedule 3 of this Agreement depicting the Land and the location of the Public Benefits.

Public Benefits means the Monetary Contribution, Public Open Space and the Land Owner's Works.

Public Open Space means provision of open space accessible to the public (by registration of the Instrument) as shown in the Public Benefits Plan being at least 600m² for the Central Open Space and at least 250m² for the Roberts Street Open Space.

Quantity Surveyor means an independent and qualified quantity surveyor as agreed by the Parties.

Register means the Torrens Title register maintained under the Real Property Act 1900.

Related Entity has the same meaning as in the Corporations Act 2001 (Cth).

Roberts Street Open Space means that part of the Public Open Space marked Roberts Street Open Space in the Public Benefits Plan.

Transferred Land means the stratum or strata lot containing the Artist Studios to be constructed and transferred to the Council in accordance with this Agreement.

2.2 Interpretation

In this Agreement unless the context clearly indicates otherwise:

- (a) a reference to this Agreement or another document means this agreement or that other document and any document which varies, supplements, replaces, assigns or novates this Agreement or that other document;
- (b) a reference in this Agreement to any law, legislation or a legislative provision includes any statutory modification, substitution, amendment or re-enactment and any subordinate legislation or regulations issued under that legislation or legislative provision. For the avoidance of doubt, this does not apply to the specifications and standards identified in the Agreement;
- (c) a reference to a body or authority which ceases to exist is a reference to either a body or authority that the Parties agree to substitute for the named body or authority or, failing agreement, to a body or authority having substantially the same objects as the named body or authority;
- (d) a reference to the introduction, a clause, schedule or annexure is a reference to the introduction, a clause, a schedule or an annexure to or of this Agreement;
- (e) clause headings and the table of contents are inserted for convenience only and do not form part of this Agreement;
- (f) the introduction, schedules (if any) and annexures (if any) form part of this Agreement;
- (g) the introduction accurately sets out the circumstances in which the Parties have entered into this Agreement;
- (h) 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.
- (i) a reference to a person includes a natural person, corporation, statutory corporation, partnership, the Crown or any other organisation or legal entity;
- (j) a reference to a natural person includes their personal representatives, successors and permitted assigns;
- (k) a reference to a right or obligation of a party is a reference to a right or obligation of that party under this Agreement;
- (l) a requirement to do anything includes a requirement to cause that thing to be done and a requirement not to do anything includes a requirement to prevent that thing being done;
- (m) including and includes are not words of limitation;
- (n) the words at any time mean at any time and from time to time;
- (o) a reference to a time is to that time in New South Wales;
- (p) a word that is derived from a defined word has a corresponding meaning;
- (q) the singular includes the plural and vice-versa;
- (r) words importing one gender include all other genders;
- (s) a reference to a thing includes each part of that thing; and
- (t) neither this Agreement nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

3. REGISTRATION AND SECURITY

3.1 Registration of Agreement

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Item 7

Attachment 1

- (a) The Land Owner:
 - (i) consents to the registration of this document at the NSW Land Registry Services on the certificate of title to the Land which must occur no later than prior to the issue of any Construction Certificate for above-ground works for any aspect of the Proposed Development;
 - (ii) warrants that it has or will obtain all consents to the registration of this document on the certificate of title to the Land; and
 - (iii) (must within 10 Business Days of a written request from the Council (provided it is not earlier than the time period required under (i)), do all things necessary to allow the Council to register this document on the certificate of title to the Land, including but not limited to:
 - (A) producing any documents or letters of consent required by the Registrar-General of the NSW Land Registry Services;
 - (B) providing the production slip number when the Land Owner produces the certificate of title to the Land at the NSW Land Registry Services; and
 - (C) providing the Council with a cheque for registration fees payable in relation to registration of this document at NSW Land Registry Services.
- (b) The Council and the Land Owner must act promptly in undertaking the registration and in complying with and assisting to respond to any requisitions raised by the NSW Land Registry Services that relate to registration of this document.

3.2 Release and discharge of Agreement

- (a) The Council agrees to promptly do all things reasonably required by the Land Owner to release and discharge this Agreement with respect to any part of the Land upon the Land Owner providing all of the Public Benefits in respect of that part of the Land.
- (b) Should the Land Owner request Council to extinguish the Agreement on folio(s) of the Register for the Land, at any time, the Council will consider that request having regard to the:
 - (i) remaining Public Benefits to be provided; and
 - (ii) the provision of security or other arrangements to Council's satisfaction to secure the performance of any outstanding obligations.
- (c) The Parties agree that if the Land is subdivided such that development takes place in more than one stage, the registration of this Agreement will be removed from the title of any allotment of the Land subject to a strata scheme under the *Strata Schemes (Freehold Development) Act 1973* save where the strata scheme covers the Transferred Land in which case the Agreement must remain registered on the title of the Transferred Land until such time that the transfer or dedication has taken place. It will be Council's responsibility to remove the registration of this Agreement from the title after transfer has taken place.

3.3 Caveat

- (a) Without limiting any other provision of this Agreement, after execution of this Agreement and until such time as the registration of this Agreement is completed, the Land Owner agrees that Council may, at any time, lodge a

caveat over the Land precluding any Dealing which is inconsistent with this Agreement.

- (b) If the Council lodges a caveat in accordance with clause 3.3(a), then the Council must immediately do all things reasonably required to ensure that the caveat does not prevent or delay the registration of:
 - (i) this Agreement;
 - (ii) any plan of consolidation or subdivision contemplated, required or permitted under this Agreement;
 - (iii) any other Dealing contemplated, required or permitted under this Agreement;
 - (iv) a Dealing where there has been compliance (if required) with clause 13 of this Agreement; and
 - (v) the transfer of any part of the Land to a Related Entity of the Land Owner or a trust or fund of which a related body corporate of the Land Owner is trustee, manager or responsible entity.
- (c) The Council must promptly do all things reasonably required to remove the caveat from the Register for the Land once this Agreement has been registered on the Register.

3.4 Provision of Bank Guarantee

- (a) The Land Owner must deliver the Guarantee for \$3,226,500 before the issue of the first Construction Certificate for the Proposed Development.
- (b) The Land Owner is entitled to and Council will accept a replacement of the Guarantee provided under clause (a) with a Guarantee for \$322,650 for and during the Defects Liability Period.
- (a) The Land Owner agrees that Council may make an appropriation from the Guarantee in such amount as the Council, acting reasonably, thinks appropriate if:
 - (i) the Land Owner fails to comply with clause 5.3 of this document (provision of detailed design drawings and detailed cost estimate); ;
 - (ii) the Land Owner fails to comply with clause 4.1 (payment of Monetary Contribution);
 - (iii) the Land Owner fails to deliver the Public Benefits in accordance with clause 4;
 - (iv) an Insolvency Event occurs in respect of the Land Owner;
 - (v) the Land Owner fails to rectify a Defect in accordance with clause 7 of this Agreement;
 - (vi) the detailed designs for the Artist's Studios are not finalised between the parties within 12 months of the date of issue of a Construction Certificate that approves the construction of any structures above the ground floor of the Proposed Development; or
 - (vii) there has been a breach of this document and the Council incurs any other expense or liability in exercising its rights and powers under this document.
- (b) Any amount of the Guarantee appropriated by Council in accordance with clause 3.4 must be applied only towards:
 - (i) the costs and expenses reasonably incurred by Council rectifying

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- (ii) any default by the Land Owner under this document; and carrying out any works required to achieve the Public Benefits.

Council must return to the Land Owner any other amounts.

3.5 Expenditure by the Council

- (a) If the Council claims on the Guarantee to Complete the Land Owner's Works, then the Council:
 - (i) is not required to expend more money than the Guarantee Amount and may elect not to carry out items of the Developer's Works to ensure that those works can be carried out for an amount equal to or less than the Guarantee Amount;
 - (ii) may expend more than the Guarantee Amount but only if the Land Owner agrees that the expenditure is reasonable or otherwise the additional expenditure is determined to be reasonable by an expert appointed by the parties under clause 8. Any such agreed or determined additional expenditure in excess of the Guarantee Amount will be deemed to be a debt due and owing to the Council by the Land Owner.-
- (b) If the Council calls upon the Guarantee in accordance with this clause 3 then the Land Owner must immediately provide to the Council a replacement Guarantee to ensure that, at all times until the Guarantee is released in accordance with paragraph (b), the Council is in possession of a Guarantee for a face value equivalent to the Guarantee Amount.
- (c) If:
 - (i) the monies secured by the Guarantee have not been expended;
 - (ii) the Council has concurred with Completion in accordance with clause 6.5 of this document, and
 - (iii) the Council has been provided with the security for the Defects Liability Period in accordance with 3.4(b), then the Council will promptly return the Guarantee to the Landowner following the issue of a notice pursuant to clause 6.5 of this document.
- (d) If, following expiry of the Defects Liability Period, the Council is satisfied that all defects have been rectified in accordance with clause 8 then the Council must promptly return to the Land Owner the portion of the Guarantee retained by the Land Owner as security for the Defects Liability Period.

4. REQUIREMENT TO PROVIDE PUBLIC BENEFITS

4.1 Monetary Contribution prior to Construction Certificate

- (a) The Land Owner must pay the Monetary Contribution to Council prior to the issue of a Construction Certificate for the Proposed Development.
- (b) Payment can be made by cheque.

4.2 Artist Studios prior to Occupation Certificate

- (a) The Land Owner (at its cost) must carry out all steps required to create the Artist Studios including provision of fit out and services as per the Studio

Specification at Schedule 6.

- (b) The Land Owner must dedicate or transfer the Artist Studios in a stratum or strata lot to the Council (including making any necessary subdivision applications).
- (c) The Artist Studios and dedication of the Transferred Land under this Agreement must occur prior to the issue of the first Occupation Certificate for a residential apartment on the Land within the Proposed Development.

4.3 Transferred Land

- (a) The Land Owner and the Council expressly acknowledge and agree that the Transferred Land is of value, but nonetheless is to be transferred to the Council for no consideration.
- (b) Subject to the other terms of this agreement including Schedule 2, the Land Owner will not bring or make against Council any additional claim, offset or credit for the value of that Transferred Land.
- (c) The final dimensions and location of the Transferred Land are subject to the scope and refinement of the Land Owner's Works under this Agreement, the conditions of any Development Consent or Construction Certificate for the Proposed Development and survey but will not be less than 239m².
- (d) The Transferred Land to Council will be subject to the terms in the instrument identified in Schedule 5 (**Instrument**) attaching to the lot, including:
 - (i) Item 1 - Council will maintain all assets within the Land for the Artist Studios, inclusive of services that benefit the Land for the Artist Studios;
 - (ii) Item 2 - a restriction on use that the Artist Studios must be a publicly operated community space for artists or creative industries
- (e) Prior to registration of the Plan of Subdivision creating the Transferred Land lot, the Land Owner must provide Council with a draft schedule of shared facilities and services that itemises the proportionate responsibility for those facilities and services and a report from a Quantity Surveyor verifying the proportionate allocation to the Transferred Land as being fair and equitable considering the intended use and capacity of the Artist Studios on the Transferred Land and a building management statement (**BMS**).
- (f) The Land Owner and Council, acting reasonably, must agree to a building management statement as referred to in clause 4.3(e).
- (g) Within 20 Business Days of Council receiving the documents in sub- clause (e), Council, acting reasonably, will give the Land Owner written notice as to whether or not the draft proportionate allocation of responsibility for shared facilities and BMS is satisfactory and if not include the reasons as to why they are not satisfactory.
- (h) If the Parties cannot agree on the allocation or BMS, then either Party can refer the dispute to be resolved by adopting the procedures in clause 8. If agreement cannot be reached subsequent to compliance with clause 8 then the dispute is to be determined by an expert as follows:
 - (i) the Parties are to attempt to reach agreement on the expert to be appointed;
 - (ii) if the Parties cannot agree on an expert within 15 Business Days after service of a notice intending to refer the dispute to an expert, then either party may request a Councillor or President (NSW Chapter) of the Australian Institute of Quantity Surveyors to appoint

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a member of that institute as the expert quantity surveyor;

- (iii) both Parties, within 20 Business Days of the date of appointment of the expert, may make written submissions to the expert (and provide a copy to the other party) on the matter the subject of the dispute;
 - (iv) the Parties agree that the hearing by the expert will be concluded within 30 Business Days and the expert's decision be given within 30 Business Days of the date of appointment of the expert and shall use their best endeavours to see that these time frames are met; and
 - (v) the experts decision is final and binding on the Parties and the cost of the expert's decision is to be borne by the Parties in the shares the expert determines.
- (i) The Land Owner must register the Instrument and BMS as agreed or determined under this clause by the dates and times specified in this Agreement.
 - (j) The Council will accept the transfer of the Transferred Lands including by signing all necessary documentation.
 - (k) In the event that the Land Owner fails to transfer the Transferred Lands to Council in accordance with the relevant timing requirements identified within this agreement., then Council may compulsorily acquire the following land or right for \$1.00 in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW):
 - (i) the relevant part of the Transferred Lands but subject to the restrictions and covenants contemplated in this Agreement; and
 - (ii) if necessary for access to the relevant part of the Transferred Lands, easements for access and services, but only across those areas contemplated in the Development Application for the Proposed Development.
 - (l) The Land Owner and the Council agree that:
 - (i) subclause (k) is an agreement between the Land Owner and the Council for the purposes of section 30 of the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW);
 - (ii) in clause 4.3, the Parties have agreed on all relevant matters concerning the compulsory acquisition and the compensation to be paid for the acquisition; and
 - (iii) the Land Owner must pay the Council, promptly on demand, an amount equivalent to all costs incurred by the Council in acquiring the whole or any part of the Transferred Lands as contemplated by subclause (k).

4.4 Public Open Space

The Land Owner (at its cost) must carry out all steps required to create the Public Open Space including by registering the Instrument to ensure that the Public Open Space is accessible to the public prior to the issue of the first Occupation Certificate for a residential apartment on the Land within the Proposed Development.

4.5 Directions by the Council

The Land Owner must comply with any reasonable directions by the Council in respect of the transfer of the Transferred Land to the Council. The Parties agree that this clause does not permit Council to require changes to the scope of or terms

of transfer of the Transferred Land.

4.6 Identification of Transferred Land

The Land Owner, in consultation with the Council, acting reasonably, must identify the location of the Transferred Land and Public Open Space within the subdivision plan that is to accompany any development application for construction and subdivision of the Proposed Development.

4.7 Extinguishment or creation of interests on Transferred Land

- (a) Prior to the dedication or transfer of the Transferred Land to the Council, the Land Owner must:
 - (i) extinguish all leases and licences over the Transferred Land; and
 - (ii) use its best endeavours to extinguish all redundant encumbrances and those that, in the Council's reasonable opinion, would unreasonably impede the intended use of all or any part of the Transferred Land.
- (b) Nothing in this clause 4.7 prevents the registration of the Instrument or encumbrances referenced in the Instrument.

5. LAND OWNER'S WORKS

5.1 Acknowledgement about Public Benefits Plan

The Parties acknowledge that at the date of this Agreement no Development Application has been lodged with respect to the Proposed Development and so the Public Benefits Plan is indicative only and the detail of that plan may change as a result of the detailed design, resolution of issues arising from the mixed use nature of the Proposed Development and Development Consent processes. The Parties expressly acknowledge and agree that nothing in this clause requires the Central Open Space to be more than 600m² or the Roberts Street Open Space to be more than 250m².

5.2 Refinement of Land Owner's Works

The Parties agree that further design, detail and refinement of the Land Owner's Works is necessary but expressly acknowledge and agree that nothing in this Agreement is intended or will be construed:

- (a) to require (unless the Land Owner agrees), such refinement or variation of the Land Owner's Works as contemplated in this Agreement that necessitates that the Land Owner providing more than 239m² for the Artist Studios and
- (b) to enable Council to change the design or require the Land Owner to change the design of the Land Owner's Works in a manner which increases the time taken to undertake the Land Owner's Works by at least three months or increases the Costs, of the Land Owner's Works by more than 10%.

5.3 Final Design of the Land Owner's Works prior to Construction

- (a) Preparation of plans and specifications

The Land Owner must prepare construction drawings in accordance with the Development Consent prior to issue of the Construction Certificate for the relevant aspect of the Land Owner's Works, for approval by Council.

- (b) Approval by the Council

The Council acting reasonably, will promptly and in any case within 20 Business Days give the Land Owner written notice whether or not the final design of the Land Owner's Works under clause 5.3(a) is satisfactory or requires modification having regard to:

- (i) the Schedules and the Public Benefits Plan;
- (ii) the conditions of any Development Consent that applies to the Land Owner's Works; or
- (iii) any standards, or specifications for the material selection or methodology, adopted by Council from time to time, provided that any direction given under this clause does not significantly increase:
 - (A) the Cost of that element of the Land Owner Works by more than 10%; or
 - (B) the complexity of implementation in a manner which may lead to a delay in the completion of the balance of the work approved under any relevant Development Consent for the Proposed Development by more than three months.
- (c) [Not used]
- (d) The Land Owner must promptly take into account the comments made by the Council in accordance with clause 5.3(b) and either:
 - (i) amend the design to reflect the comments made; or
 - (ii) notify Council that the Land Owner so declines, and provide written reasons together with any alternative which the Land Owner considers may address the concern.
- (e) if the Land Owner so declines under clause 5.8 (d)(ii) either Party can refer the dispute to be resolved by adopting the procedures in clause 8. If agreement cannot be reached subsequent to compliance with clause 8 then the dispute as to the plans is to be determined by an expert as follows:
 - (i) the Parties are to attempt to reach agreement on the expert to be appointed;
 - (ii) if the Parties cannot agree on an expert within 15 Business Days after service of a notice intending to refer the dispute to an expert, then either party may request the President (NSW Chapter) of the Planning Institute of Australia to appoint a member of that institute as the expert planner;
 - (iii) both Parties, within 20 Business Days of the date of appointment of the expert, may make written submissions to the expert (and provide a copy to the other party) on the matter the subject of the dispute;
 - (iv) the Parties agree that the hearing by the expert will be concluded within 30 Business Days and the expert's decision be given within 30 Business Days of the date of appointment of the expert and shall use their best endeavours to see that these time frames are met; and
 - (v) the experts decision is final and binding on the Parties and the cost of the expert's decision is to be borne by the Parties in the shares the expert determines.

6. CONSTRUCTION OF THE LAND OWNER'S WORKS

6.1 Insurance

The Land Owner must:

- (a) maintain public liability insurance, with an insurer approved by the Council, acting reasonably, with the Council nominated as an interested party, for

an amount not less than the amount stated in Item 5 of **Schedule 1**, covering all aspects and staging of the Land Owner Works and submit a copy of the certificate of insurance to the Council prior to the commencement of the construction of the Land Owner's Works and when otherwise required by the Council (acting reasonably); and

- (b) maintain all other necessary insurance policies in respect of the Land.

6.4 Works Completion

When, in the opinion of the Land Owner, the Land Owner's Works have reached Completion, then the Land Owner must notify the Council in writing, and must include in that notice:

- (a) a statement from the person with direct responsibility, carriage and supervision of that work that in their opinion the Land Owner's Works have reached Completion; and
- (b) copies of all certifications, warranties and guarantees (where available to the Land Owner), maintenance information or other material reasonably required for the ongoing repair, maintenance, or servicing (as the case may be) of any part of the Land Owner's Work; and
- (c) at least three (3) sets of the "as built" drawings of the Land Owner's Work, including one set in electronic CAD format.

6.5 Final Inspection by Council

- (a) The Council must inspect the Land Owner's Works within 15 Business Days of notification to the Council under clause 6.4. Within 5 Business Days after that inspection, Council must by written notice to the Land Owner either:
 - (i) concur that Completion has been achieved; or
 - (ii) disagree that Completion has been achieved and (if Council so disagrees), identify the errors or omissions which in the opinion of the Council prevents Completion by reference to the Development Consent or Construction Certificate or the plans and specification agreed under clause 5.
- (b) The Parties agree that where a notice is issued by Council under clause (a)(ii), the provisions of clause (a) continue to apply until such time as Council issue a notice under clause (a)(i) or (ii). If after two attempts by the Land Owner to obtain Council's concurrence under this clause, Council has not concurred that Completion has been achieved, then either party can refer the dispute to be resolved by adopting the procedures in clause 8. If agreement cannot be reached subsequent to compliance with clause 8, then the dispute is to be determined by an expert as follows:
 - (i) The Parties are to attempt to reach agreement on the expert to be appointed;
 - (ii) If the Parties cannot agree on an expert within 7 Business Days after service of a notice intending to refer the dispute to an expert, then either party may request the President of the Association of Accredited Certifiers to appoint a member of that institute as an expert;
 - (iii) Both Parties, within 10 Business Days of the date of appointment of the expert, may make written submissions to the expert (and provide a copy to the other party) on the matter the subject of the dispute;
 - (iv) The Parties agree that the hearing by the expert will be concluded within 15 Business Days and the expert's decision be given within 20 Business Days of the date of appointment of the

expert and shall use their best endeavours to see that these time frames are met; and

- (v) The expert's decision is final and binding on the Parties and the cost of the expert's decision is to be borne by the Parties in the shares the expert determines.

7. DEFECTS LIABILITY PERIOD

If the Council notifies the Land Owner of a Defect in the Land Owner's Works within the Defects Liability Period and the Land Owner agrees with the defect, the Land Owner must remedy that Defect to the reasonable satisfaction of the Council, within a reasonable period (having regard to the nature of the Defect).

8. DISPUTE RESOLUTION

8.1 Reference to dispute

Without limiting clauses 4.3(h), 5.3(e), and 6.5(b), if a dispute arises in connection with this Agreement, a Party to the dispute must give to the other party or Parties to the dispute notice specifying the dispute and requiring its resolution under this clause 8.

8.2 Dispute procedure

- (a) A person from each Party with sufficient authority to resolve the subject matter of a Notice of Dispute must confer within 5 Business Days after the Notice of Dispute is given to try to resolve the dispute.
- (b) If the dispute is not resolved within 5 Business Days after the Notice of Dispute is given to the other party or Parties (first period), either Party may by written notice to the other party require the dispute to resolve by another form of alternative dispute resolution (including expert determination, arbitration, or mediation) which is appropriate for the resolution of the relevant dispute. In the case of a dispute under clause 3.5(ii) the parties must resolve it by reference to an expert for determination. The expert's decision is final and binding on the Parties and the cost of the expert's decision is to be borne by the Parties in the shares the expert determines.

8.3 Neither party may constrain

Except in the case of a dispute under clause 3.5(ii), if:

- (a) at least one meeting has been held in accordance with clause 8.2(a); and
- (b) the Parties have been unable to reach an outcome; and
- (c) either of the Parties (acting in good faith) forms the view that the dispute is reasonably unlikely to be resolved in accordance with a process agreed under clause 8.2(b);

then that party may, by 10 Business Days' notice in writing to the other, terminate the dispute resolution process in respect of that dispute. The termination of the process set out in this clause 8 does not of itself amount to a breach of the Agreement.

8.4 Court proceedings

Despite anything in this clause, a party at any time may commence court proceedings in relation to any dispute or claim arising under or in connection with this Agreement where that party seeks urgent interlocutory relief.

9. GST

9.1 Additional amounts for GST

If a party to this Agreement (**Supplier**) makes a supply under or in connection with this Agreement and is liable by law to pay GST on that supply, then the consideration otherwise payable by the recipient of the supply will be increased by an amount equal to the GST paid or payable by the Supplier.

9.2 Reimbursement

If this Agreement requires a party to pay for, or reimburse any expense, loss or outgoing (**reimbursable expense**) suffered or incurred by another party, the amount required to be paid, or reimbursed by the first party is the amount of the reimbursable expense net of any input tax credit or reduced input tax credit to which the other party is entitled in respect of the reimbursable expense.

9.3 Provision of Tax Invoices and other documentation for GST

Each party agrees to do all things, including providing tax invoices and other documentation that may be necessary or desirable to enable or assist the other party to claim any input tax credit, set-off, rebate or refund in relation to any amount of GST paid or payable in respect of any supply under this Agreement.

9.4 Amounts GST exclusive

Subject to the operation of this clause, and unless otherwise expressly stated amounts in this Agreement are GST exclusive.

9.5 No merger

This clause will not merge on completion or termination of this Agreement.

10. LIMITATION OF LIABILITY

- (a) The Land Owners enter into this Agreement only in their capacity as trustees (where and as specified) and in no other capacity.
- (b) A liability arising under or in connection with this Agreement is limited to and can be enforced against the trustee only to the extent to which it can be satisfied out of property of the trust from which the trustee is indemnified for the liability. This limitation of the trustee's liability applies despite any other provision of this agreement and extends to all liabilities and obligations of the trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Agreement.
- (c) No party to this Agreement or any person claiming through or on behalf of them will be entitled to:
 - (i) claim from or commence proceedings against the trustee in respect of any liability in any capacity other than as trustee of the trust;
 - (ii) seek the appointment of a receiver, receiver and manager, liquidator, an administrator or any similar office-holder to the trustee, or provide in any liquidation, administration or arrangement of or affecting the trustee (except in relation to property of the trust); or
 - (iii) enforce or seek to enforce any judgment in respect of a liability under this agreement or otherwise against the trustee in any capacity other than as trustee for the trust.
- (d) This clause 10 does not apply to any obligation or liability of the Land Owner to the extent to which there is, in respect of that obligation or liability, whether under the trust deed or by operation of law, a reduction in the extent of the Land Owner's indemnification, or loss of the Land Owner's right of indemnification, out of the assets of the trust as a result of the Land Owner's failure to properly

perform its duties as trustee of the trust.

- (e) Nothing in clause shall make the trustee liable to any claim for an amount greater than the amount which the Council would have been able to claim and recover from the assets of the trust in relation to the relevant liability if the trustee's right of indemnification out of the assets of the trust had not been prejudiced by failure to properly perform its duties.
- (f) The trustee is not obliged to do or refrain from doing anything under this Agreement (including incur any liability) unless its liability is limited in the same manner as set out in clauses (a) to (d).
- (g) If at any time the title to the Land becomes registered in the name of a party or parties acting in the role of a trustee or custodian and the rights are transferred under the Deed of Novation, then that party may require the limitations of liability clause expressed in the Deed of Novation.

11. WARRANTIES

- (a) Each party represents and warrants that:
 - (i) (power) it has full legal capacity and power to enter into this document and to carry out the transactions that it contemplates;
 - (ii) (corporate authority) it has taken all corporate action that is necessary or desirable to authorise its entry into this document and to carry out the transactions contemplated;
 - (iii) (Authorisations) it holds each Authorisation that is necessary or desirable to:
 - (A) enable it to properly execute this document and to carry out the transactions that it contemplates;
 - (B) ensure that this document is legal, valid, binding and admissible in evidence; or
 - (C) enable it to properly carry on its business as it is now being conducted,
 and it is complying with any conditions to which any of these Authorisations is subject;
 - (iv) (documents effective) this document constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally), subject to any necessary stamping or registration;
 - (v) (solvency) there are no reasonable grounds to suspect that it will not be able to pay its debts as and when they become due and payable; and
 - (vi) (no controller) no controller is currently appointed in relation to any of its property, or any property of any of its subsidiaries.
- (b) The Land Owner warrants to Council that, at the date of this document:
 - (i) it is legally entitled to obtain all consents and approvals that are required by this document and do all things necessary to give effect to this document;
 - (ii) all work performed by the Land Owner and the Personnel under this document will be performed with due care and skill and to a standard which is equal to or better than that which a well experienced person in the industry would expect to be provided by an organisation of the Land Owner's size and experience;
 - (iii) it is not aware of any matter which may materially affect the Land

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Owner's ability to perform its obligations under this document;

- (iv) it is entitled to indemnification out of the assets of the trust in respect of all of the liabilities and obligations of the Land Owner under or arising out of or in connection with this document; and
- (v) it is not aware of any breach or other issue in relation to the trust that would adversely affect the entitlement of the Land Owner to be so indemnified.
- (c) The Land Owner warrants to Council that, prior to commencing delivery of the Public Benefits it will have obtained all Authorisations and insurances required under any Law to carry out its obligations under this document.

12. VARIATION

12.1 Written agreement to vary

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

12.2 Variation as to Instrument, Public Benefit Plans and Guarantees

Despite clause 12.1, the Parties may agree that:

- (a) the Transferred Land be transferred to Council in stages;
- (b) the Instrument be varied to comply with registration requirements and any staging; and
- (c) the design of Land Owner's Works be varied as contemplated in this Agreement.

13. ASSIGNMENT AND NOVATION

13.1 Dealings by Council

- (a) The Council may Deal with its interest in this document without the consent of the Land Owner if the Dealing is with a Government Agency. The Council must give the Land Owner notice of the Dealing within five Business Days of the date of the Dealing.
- (b) The Council may not otherwise Deal with its interest in this document without the consent of the Land Owner, such consent not to be unreasonably withheld or delayed.

13.2 Dealing by the Land Owner

- (a) Prior to registration of this document in accordance with clause 3, the Land Owner must not Deal with this document or the Land without the Council, the Land Owner and the third party the subject of the Dealing entering into the Deed of Novation and delivering a properly executed copy of the Deed of Novation to Council.
- (b) On and from registration of this document in accordance with clause 3:
 - (i) the Land Owner may Deal with this document without the consent of the Council only as a result of the sale of the whole or part of the Land (without subdivision) to a purchaser of the Land and provided the Council, the Land Owner and the third party the subject of the Dealing enter into the Deed of Novation;
 - (ii) the Land Owner may register a plan of strata subdivision, and the Council consents to this document remaining registered only on the certificate of title to the common property of the strata plan upon registration of the strata plan; and
 - (iii) the Land Owner must not otherwise Deal with this document to a third party that is not a purchaser of the whole or any part of the Land without:

- (A) the prior written consent of the City; and
- (B) the Council, the Land Owner and the third party the subject of the Dealing entering into a deed of consent to the Dealing on terms acceptable to the City.

- (c) The Land Owner must pay Council's costs and expenses relating to any consent or documentation required due to the operation of this clause 13.2 and Council must not unreasonably refuse to execute the Deed of Novation and must do so within 14 Business Days.
- (d) The Deed of Novation may be amended as agreed from time to time by the Parties acting reasonably.

14. GENERAL PROVISIONS

14.1 Entire Agreement

This Agreement sets out the whole agreement of the Parties in respect of the subject matter. There are no other agreements, warranties or undertakings.

14.2 Waiver

A waiver by either Party is only effective if it is given in writing, and will only relate to the particular obligation or breach (as the case may be) identified in that communication.

14.3 Further assurances

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.

14.4 Representations and warranties

The Parties represent and warrant that they have power:

- (a) to enter into this Agreement; and
- (b) comply with their obligations under the Agreement.

14.5 Time for doing acts

- (a) If:
 - (i) the time for doing any act or thing required to be done; or
 - (ii) a notice period specified in this Agreement,
 expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5:00 PM on the specified day, it is taken to have been done on the following Business Day.

14.6 Governing law and jurisdiction

This Agreement is governed by the law of New South Wales. The Parties submit to the jurisdiction of the courts of that state.

14.7 Severance

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.

14.8 Preservation of existing rights

The expiration or termination of this Agreement does not affect any right that has accrued to a party before the expiration or termination date.

14.9 No merger

Any right or obligation of any party that is expressed to operate or have effect on or after the completion, expiration or termination of this Agreement for any reason, will not merge on the occurrence of that event but will remain in full force and effect.

14.10 Counterparts

This Agreement may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

14.11 Relationship of Parties

Unless otherwise stated:

- (a) nothing in this Agreement creates a joint venture, partnership, or the relationship of principal and agent, or employee and employer between the Parties; and
- (b) no party has the authority to bind any other party by any representation, declaration or admission, or to make any contract or commitment on behalf of any other party or to pledge any other party's credit.

14.12 No fetter

Nothing in this Agreement will be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and nothing will be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

14.13 Inner West Council rights

This Agreement does not impose an obligation on Inner West Council to:

- (a) grant Development Consent for the Proposed Development; or
- (b) exercise any function under the Act in relation to a change to an environmental planning instrument, including the making or revocation of an environmental planning instrument.

14.14 Expenses and stamp duty

- (a) Subject to subclause (b), the Land Owner is liable for and must pay all stamp duty (including any fine or penalty) on or relating to this Agreement unless otherwise specified.
- (b) Council is liable for and must pay all stamp duty (if relevant) relating to the transfer of the Transferred Land.
- (c) Each party agrees to pay their own costs of negotiating and finalising this Agreement.

14.15 Notices

- (a) Service of Notice

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 in Item 11 of Schedule 1; or
 - (ii) emailed to that Party at the email address set out in Item 11 of Schedule 1. If more than one email address is specified, the notice, to be valid, must be sent to all of the email addresses identified.
- (b) **Change of Address**
If a Party gives the other Party 10 Business Days' notice of a change of its address or email, 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 email.
- (c) **Time of Service of Notice**
Any notice, consent, information, application or request is to be treated as given or made at the following time:
 - (i) if it is delivered, when it is left at the relevant address;
 - (ii) if it is sent by post, 2 Business Days after it is posted; and
 - (iii) if it is sent by email, by 9:00 AM the next Business Day unless before that time the sender receives an automated message that the email was not delivered.
- (d) **Service After Hours, on Weekends and Holidays**
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 5:00 PM 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.

Schedule 1 – Details

Item	Name	Description
1	Land Owner's Name	JVM Holdings Pty Limited as trustee for the JVM Family Trust
	Land Owner's ACN	ACN 108 640 642 and
	Land Owners Address	Suite 2.11, 75 Mary Street, St Peters
	Land Owner's Name	Chalak Holdings Pty Ltd as trustee for the Chalak Family Trust
	Land Owner's ACN	ACN 108 830 084
	Land Owner's Address	Suite 2.11, 75 Mary Street, St Peters
2	Council	Inner West Council
	Council's ABN	19 4880 179 87
	Council's Address	2-14 Fisher Street, Petersham NSW 2049
3	Land	Land comprised in: Lot 1 DP 556914; Lot 1 DP745014; Lot 1 DP745657; Lot 1 DP180958; Lot A DP331215;and Lot 1 DP87885, also known as 75 Mary Street, St Peters
4	Public Liability Insurance	\$20 million dollars
5	Notices	General Manager
	Council	Inner West Council
	Attention	General Manager
	Address	2-4 Fisher Street, PO Box 14 Petersham NSW 2049

	Land Owner	JVM Holdings Pty Limited as trustee for the JVM Family Trust ACN 108 640 642
	Attention:	Proper Officer
	Address:	Suite 2.11, 75 Mary Street, St Peters
	Land Owner	Chalak Holdings Pty Ltd as trustee for the Chalak Family Trust ACN 108 830 084
	Attention	Proper Officer
	Address	Suite 2.11, 75 Mary Street, St Peters

Schedule 2 – Requirements under section 7.4 (clause 2.2)

The Parties acknowledge and agree that the table set out below provides for certain terms, conditions and procedures for the purpose of the Agreement complying with the Act.

Requirements under the Act	This agreement
Planning instrument and/or development application – (section 7.4(3)(b))	
The Land Owner has:	
(a) sought a change to an environmental planning instrument:	Yes
(b) made, or proposes to make, a development or project application:	Yes
(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies:	Yes
Description of land to which this Agreement applies – (section 7.4(3)(a))	See Schedule 1 Item 3
Description of change to the environmental planning instrument to which this Agreement applies – (section 7.4(3)(b))	As provided in the Amending LEP
The scope, timing and manner of delivery of contribution required by this Agreement – (section 7.4(3)(c))	See clause 4.1, 4.2, 4.3 and clause 6.4
Applicability of section 7.11 of the Act – (section 7.4(3)(d))	Not excluded
Applicability of section 7.12 of the Act – (section 7.4 (3)(d))	Not excluded
Applicability of section 7.24 of the Act – (section 7.4 (3)(d))	Not excluded.
Consideration of benefits under this Agreement if section 7.11 applies – (section 7.4(3)(e))	Yes
Mechanism for Dispute Resolution – (section 7.4(3)(f))	See clause 8
Enforcement of this Agreement – (section 7.4(3)(g))	See clauses 3 and , 4.3(k)
No obligation to grant consent or exercise functions – (section 7.4(3)(g))	See clause 13.13

Schedule 3 – Public Benefits Plan



Schedule 4 – Deed of Novation

DEED OF NOVATION

THIS DEED OF NOVATION is made on _____ between the following Parties:

JVM Holdings Pty Ltd ACN 108 640 642 as trustee for the JVM

Family Trust and

Chalak Holdings Pty Ltd ACN 108 830 084 as trustee for the Chalak Family Trust

("Outgoing Party"), and

Inner West Council (ABN 194880179 87), Sydney, New South Wales ("Council"), and

[Insert Name, ACN and address] ("Incoming Party").

BACKGROUND

- A. The Council and the Outgoing Party are Parties to the VPA.
- B. The VPA relates to the whole of the Land.
- C. The Outgoing Party wishes to transfer the Land to the Incoming Party.
- D. The Incoming Party agrees to perform the obligations and seeks to obtain the benefits of the Outgoing Party under the VPA.
- E. The Outgoing Party and the Incoming Party have agreed to enter into this Deed of Novation, in accordance with clause 12.2 of the VPA, at the request of the Council.

1. Definitions and Interpretation

Voluntary Agreement ("VPA") is the Agreement – 75 Mary Street entered into between the Council and the Outgoing Party.

1.1 Definitions

Words and expressions defined in the VPA have the same meaning in this Deed.

1.2 Headings

Headings do not affect the interpretation of this document.

2. Performance of Obligations

2.1 On and from the date of this Deed, the Incoming Party:

- (c) is substituted for the Outgoing Party as a party to the VPA and acknowledges itself to be bound by the provisions of the VPA, as if the Incoming Party had originally been named as the Outgoing Party in that VPA;

- (d) (without limiting the preceding paragraph (a)) must punctually carry out and perform all other obligations of the Outgoing Party under the VPA which are not performed at the date of this Deed; and
- (e) The Incoming Party will be:
 - (i) entitled to the benefit of the VPA; and
 - (ii) entitled to enforce the VPA against Council,
 as if the Incoming Party had originally been named as the Outgoing Party in that VPA.
- (f) The Council must address all notices and communications to be given or made by it to the Incoming Party under the VPA to the following address:

Incoming Party:

[Drafting Note: Insert Incoming Party address]

3. PERFORMANCE AFFECTED BY NOVATION

3.1 Performance by Outgoing Party

The Outgoing Party:

- (a) (subject to clause 3.3 of this Deed) releases and discharges Council from its obligations under the VPA and from all claims and demands in respect of the performance of and obligations under the VPA prior to the date of this Deed; and
- (b) warrants to the Council that it has properly performed its obligations under the VPA up to and including the date of this Deed, complying with all contractual requirements.

3.2 Performance by Incoming Party

The Incoming Party must perform all of the Land Owner's obligations under the VPA as if named as the Land Owner, whether or not the relevant obligations relate to works that were to be performed prior to the date of this Deed, including the delivery of all Public Benefits to Council.

3.3 Release by Council

Council releases and discharges the Outgoing Party from all of its obligations under the VPA and from all claims and demands in respect of the performance of and obligations under the VPA that arise.

[Drafting Note: insert if Incoming Purchaser is acting in a capacity as a trustee or custodian]

4. LIMITATION OF LIABILITY

- (a) The Incoming Party enters into the VPA only in their capacity as trustees (where and as specified) and in no other capacity.
- (b) A liability arising under or in connection with the VPA is limited to and can be enforced against the trustee only to the extent to which it can be satisfied out of property of the trust from which the trustee is indemnified for the liability. This limitation of the trustee's liability applies despite any other provision of this agreement and extends to all liabilities and obligations of the trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this VPA.
- (c) No party to the VPA or this Deed or any person claiming through or on behalf of them will be entitled to:
 - (iv) claim from or commence proceedings against the trustee in respect

of any liability in any capacity other than as trustee of the trust;

- (v) seek the appointment of a receiver, receiver and manager, liquidator, an administrator or any similar office-holder to the trustee, or provide in any liquidation, administration or arrangement of or affecting the trustee (except in relation to property of the trust); or
- (vi) enforce or seek to enforce any judgment in respect of a liability under this agreement or otherwise against the trustee in any capacity other than as trustee for the trust.

- (d) This clause does not apply to any obligation or liability of the Land Owner to the extent to which there is, in respect of that obligation or liability, whether under the trust deed or by operation of law, a reduction in the extent of the Land Owner's indemnification, or loss of the Land Owner's right of indemnification, out of the assets of the trust as a result of the Land Owner's failure to properly perform its duties as trustee of the trust.
- (e) Nothing in clause shall make the trustee liable to any claim for an amount greater than the amount which the Council would have been able to claim and recover from the assets of the trust in relation to the relevant liability if the trustee's right of indemnification out of the assets of the trust had not been prejudiced by failure to properly perform its duties.
- (f) The trustee is not obliged to do or refrain from doing anything under the VPA or this Deed (including incur any liability) unless its liability is limited in the same manner as set out in clauses (a) to (f).
- (g) The trustee represents and warrants that it has the right to be fully indemnified out of the trust in respect of its obligations under this document and that right has not been restricted or limited in any way.

5. Governing Law

This deed is governed by the laws of New South Wales.

6. Further acts

Each party will take all steps, execute all deeds and do everything reasonably required by any other party to give effect to any of the actions contemplated by this deed.

7. Counterparts

This deed may consist of a number of counterparts and the counterparts taken together constitute one and the same instrument.

EXECUTED as a DEED

INNER WEST COUNCIL by its duly)
appointed attorney *[insert]* Power of)
Attorney registered number book in)
the presence of:)
)

Witness:

**EXECUTED by JVM Holdings Pty Ltd ACN
108 640 642 as trustee for the JVM
Family Trust and Chalak Holdings Pty
Ltd ACN 108 830 084 as trustee for the
Chalak Family Trust**

in accordance with section 127 of the
Corporations Act 2001 (Cth)
Signature of director/secretary

Signature of director

[Insert Execution by Incoming Party]

Attorney

DEED OF NOVATION

[INSERT INCOMING PARTY NAME]

Schedule 5 – Section 88B Instrument

Plan:	Plan of subdivision of # covered by Subdivision Certificate No.
Full Name and address of the owner of the land:	JVM Holdings Pty Limited ACN 108 640 642 as trustee for the JVM Family Trust Chalak Holdings Pty Ltd ACN 108 830 084 as trustee for the Chalak Family Trust

Part 1 (Creation)

Number of items shown in the intention panel on the plan	Identity of easement, profit a prendre, restriction or positive covenant to be created and referred to in the plan.	Burdened lot(s) or parcel(s)	Benefited lot(s), road(s), bodies or Prescribed Authorities
1	Positive Covenant for Maintenance	[artist studios]	[adjoining land]
2	Restrictive Covenant	[artist studios]	[adjoining land]
3	Easement for public access variable width limited in height and depth to the ground level of the surface [#insert consistent with final plan]	[Roberts Street Open Space and Central Park Open Space]	Inner West Council

Part 2 (Terms)

1. Interpretation and general provisions

1.1 Definitions

The following are definitions in respect of defined words used in part 2 of this Instrument:

- (a) **Act** means the *Strata Schemes (Freehold Development) Act 1973* (NSW);
- (b) **Authorised Users** means any person authorised by the Grantee and includes for the purposes of any easement, right, covenant or restriction created by this Instruments:
 - (i) the Grantee's tenants, employees, agents, contractors, licensees and invitees and all occupants, residents and users of and other persons on the Lot Benefited (as applicable); and
 - (ii) if the Grantee is an Owners Corporation, each registered proprietor of a lot in that Strata Scheme, and any occupier or lessee of that lot as authorised by the Owners Corporation;

- (c) **Artist Studios** means artist studios [*Drafting Note: identify as per subdivision plan but intent is it has a cumulative area (including shared toilet facilities) of approximately 239 m² located within the ground floor of the proposed Building marked on the Public Benefits Plan*];
- (d) **Claim** includes any claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, proceeding, right of action, claim for compensation and claim for abatement of rent obligation;
- (e) **Cost** includes any cost, loss, damage, expense or payment and includes fees payable to consultants and lawyers;
- (f) **Council** means Inner West Council;
- (g) **Easement Site** means in relation to an easement, positive covenant and restriction on use in this Instrument the site of an easement, positive covenant and restriction on use identified on the Plan;
- (h) **Emergency Situation** means any circumstance involving a need, for reasons of safety, for evacuation or egress from a building or other place, including fire, earthquake, flooding terrorist activity and any training or test of such evacuation or egress.
- (i) **Future Services** means any condenser units, air conditioning units, Pipes, poles, structures and equipment or other services, including water, recycled water, sewerage, drainage, gas, electricity, ventilation, exhaust, air, ducted air, security, fire, mechanical, conditioned air, telephone and other communications, television, television or radio impulses or signals service required for the operation of the Lot Benefited;
- (j) **Grantee** is for each easement, right, covenant or restriction referred to in Part 1 of this Instrument:
 - (i) the owner of an estate in fee simple of a Lot Benefited and includes any person deriving title under the Grantee and the Grantee's executors, administrators, successors and assigns; and
 - (ii) the bodies or prescribed authorities referred to referred to in Part 1 of this Instrument;
- (k) **Grantor** is for each easement, right, covenant or restriction referred to in Part 1 of this Instrument the owner of an estate in fee simple of a Lot Burdened and includes any person deriving title under the Grantor and the Grantor's executors, administrators, successors and assigns;
- (l) **Instrument** means this section 88B instrument;
- (m) **Land** means the land comprised in Lot 1 of the Plan;
- (n) **Lot Benefited** means the whole or any part of a lot in the Plan having the benefit of an easement, right or restriction;
- (o) **Lot Burdened** means the whole or any part of a lot in the Plan having the burden of an easement, right, covenant or restriction;
- (p) **Management Statement** means a building management statement or strata management statement registered according to the Act which applies to any lots in the Plan or such further strata plan;
- (q) **Owners Corporation** means an owners corporation created on registration of a Strata Plan;
- (r) **Plan** is the plan of subdivision to which this Instrument relates;
- (s) **Pipes** means wires, cables and conduits.
- (t) **Registration Date** means the date the Plan and this Instrument is

registered at the Land & Property Information NSW;

- (u) **Services** includes water, sewerage, stormwater, drainage, gas, electricity, ventilation, exhaust, conditioned air, ducted air, garbage, television, data, internet, digital services, telecommunications, or radio impulses or signals service and includes the conduits, structures, plant and equipment associated with such services;
- (v) **Shared Services** has the same meaning given in the Management Statement.
- (w) **Strata Plan** means a strata plan registered under the Act; and
- (x) **Strata Scheme** means a strata scheme created on registration of a Strata Plan.

1.2 Interpretation

The terms of this Instrument are covenants and agreements between each:

- (a) Grantee (for itself, its successors and every person who is entitled to an estate or interest in possession of the Lot Benefited or any part of it with which the right is capable of enjoyment); and
- (b) Grantor (for itself, its successors and every person who is entitled to an estate or interest in possession of the Lot Burdened or any part of it with which the right is capable of enjoyment)

to the intent that the benefit and burden of those covenants and agreements are annexed to and pass with the benefits and burdens of the easements, rights, covenants and restrictions in this Instrument.

1.3 Complying with this Instrument and the Management Statement

- (a) Each Grantee and Grantor must, as appropriate, comply with the terms of the easements, rights, covenants and restrictions in this Instrument.
- (b) For each easement, right, covenant and restriction in this Instrument, each Grantee must ensure that its Authorised Users comply with the terms of the Instrument when they exercise their rights or comply with their obligations under the Instrument.
- (c) For each easement, right, covenant and restriction in this Instrument, the Grantee must, if it is bound by a Management Statement according to its terms:
 - (i) comply with the Management Statement, including any architectural code and shared facilities code adopted according to the Management Statement; and
 - (ii) ensure that its Authorised Users comply with the Management Statement, including any architectural code and shared facilities code adopted according to the Strata Management Statement.
- (d) A Management Statement may include provisions in respect of the use, repair and maintenance of the Shared Facilities and for each easement, right, covenant and restriction in this Instrument.
- (e) A Management Statement may regulate the apportionment of costs in relation to each easement, right, covenant and restriction in this Instrument.
- (f) A Management Statement may include provisions in respect of the use, repair and maintenance of the Future Services, the Pipes and Easement Site.
- (g) Notwithstanding anything to the contrary in this Instrument or the Management Statement, no term in the Management Statement must be read or interpreted to affect the purpose or operation of an easement, right,

covenant and restriction in this Instrument.

1.4 Positive covenants and maintenance requirements

A requirement in an easement or right which requires a Grantee or Grantor to maintain or repair an Easement Site or anything in an Easement Site is a positive covenant according to section 88BA of the *Conveyancing Act 1919*.

2. Terms of Positive Covenant for Maintenance being Item 1 of Part 1 in the Plan

Council will maintain all assets within the Artist Studios, inclusive of Services that benefit the Burdened Land.

3. Terms of Restrictive Covenant being Item 2 of Part 1 in the Plan

The Grantee and its Authorised User must only use the Artist Studios as a publicly operated community space for artists or creative industries and the use of the Artist Studios must be for a purpose consistent with the use as a workroom of an artist for the practice of fine arts, performing arts or someone who uses the skills of art in their work such as a commercial artist.

4. Terms of Easement for Public Access being Item 3 in Part 1 in the Plan

(a) Subject to clause (b) and (c), the Council and any member of the public has at all times a full, free and unimpeded right to enter, pass, repass and remain upon the Easement Site for the purpose of public passive recreation. The rights of access to, from and across the Easement Site may be exercised:

- (i) on foot;
- (ii) with wheelchairs or other disability mobility aids and prams or strollers; and
- (iii) with animals (on leads or carried only).

(b) The Grantor may temporarily suspend the access to the Easement Site, for the time and to the extent necessary, but only on reasonable grounds including:

- (i) security;
- (ii) an Emergency Situation;
- (iii) safety; or
- (iv) maintenance or improvements to the Easement Site or neighbouring sites.

(c) The Grantor, acting reasonably, may remove (or refuse entry to) any person entitled to exercise a right under this clause (a) if that person behaves:

- (i) in a manner which threatens their safety or the safety and security of people around them;
- (ii) in a manner which is likely to result in damage to or have a negative impact on the Easement Site, or any property on the Easement Site;
- (iii) in a manner which might put their or others' health and safety at risk;
- (iv) in a manner which breaches the rules of the Easement Site as approved under clause (d);

- (v) in a manner which might cause a breach of the peace; or
- (vi) unlawfully.
- (d) The Grantor may make rules regarding the use of the Easement Site subject to the prior consent of the Council (such consent not to be unreasonably withheld provided those rules are consistent with the rights of the Council and any member of the public under this instrument). The Council and members of the public must comply with such rules. The Grantor may erect signs which set out the rules which govern the use of the Easement Site.
- (e) The Grantor may erect temporary signage or barriers on the Easement Site to restrict temporarily access to the Easement Site by members of the public under this easement if either of them reasonably forms the view that such access is unsafe.
- (f) The Grantor must maintain the Easement Site in a sound structural and fully operational and working condition.

Schedule 6 – Studio Specifications

Internal Finishes (studios)	
Internal Walls	Painted Plasterboard
Internal Ceilings	Painted plasterboard
Floors	Carpet Tile
Kitchenette	Wall mounted Laminate kitchenette with double basin and cold / hot water supply.
Internal Finishes (Amenities)	
Walls & Floors	Vitrified Tile
Basins	Ceramic
Toilets	Ceramic
Lighting	Recessed LED
Toilet Partitions	Laminate
Services Provisions	
Power	1 central distribution board
Phone / Data	1 central telecommunications and data board
Lighting	Emergency & Exit lighting as per BCA
Gas	Gas supply provision terminated within lot
Cold Water	Cold water supply terminated to lot
Hot Water	Hot water supply to amenities and kitchenette
Mechanical	Provision for mechanical ventilation designed for open plan studio space

Signing page

SIGNED as a Deed

Signed sealed and delivered for and on behalf of the **Inner West Council** by a duly authorised officer who by their signature testifies that they are duly authorised to sign this instrument) in the presence of

Signature of Witness

Signature of Authorised Officer

Name of Witness
(please print)

Name of and position of Authorised Officer

Executed by Chalak Holdings Pty Ltd)
ACN 108 830 084 as trustee for the)
Chalak Family Trust in accordance with)
Section 127 of the Corporations Act 2001
(Cth)

Signature of director

Signature of director/company secretary*

Name of director
(BLOCK LETTERS)

Name of director/company secretary*
(BLOCK LETTERS)
Delete whichever does not apply

Executed by JVM Holdings Pty Ltd ACN)
108 640 642 as trustee for the JVM)
Family Trust in accordance with Section)
127 of the Corporations Act 2001 (Cth)

Signature of director

Signature of director/company secretary*

Name of director
(BLOCK LETTERS)

Name of director/company secretary*
(BLOCK LETTERS)
Delete whichever does not apply

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Item No: C0620(3) Item 8

Subject: VIRTUAL TOWN HALL MEETINGS

Prepared By: Prue Foreman - Communications and Engagement Manager

Authorised By: Erla Ronan - Director City Living

RECOMMENDATION

THAT Council receive and note the report.

DISCUSSION

Council at its meeting on 26 May 2020 resolved to receive a report on teleconference capabilities allowing virtual town hall style community meetings.

This requirement can be achieved with in-house resources including existing technology and skilled staff in the Engagement team as facilitators/moderators.

The platform selected would be determined by the event objectives, anticipated audience and needs of the presenters on a case by case basis.

1. Virtual town hall meetings as alternatives to physical public meetings

Recommended platform: Skype Broadcast

This live streaming function allows up to 1000 audience members to view a live presentation by one or more presenters and post written questions via moderators. The meeting can be video recorded for later playback. Recommended for meetings where councillors address an audience and take questions in real time. Presenters/moderators can be in their own homes.

Alternative options:

Skype for Business meeting

This live streaming function allows up to 200 audience members to participate in a meeting by audio and video and to verbally ask live questions directly to presenters. The meeting can be video recorded for later playback.

Facebook Live, YouTube Live

These live streaming services allow presenters to live broadcast to public audiences. Audience members can 'live post' written questions and comments. Moderation is an option. Community can watch without having an account but would need to sign up to Facebook/Google to comment or ask a question. Presenters need to be in the same physical space.

2. Online engagement/consultation events as alternatives to face to face engagements

Recommended platform: Your Say Inner West

This Council run platform enables presenters to post a pre-recorded video or PowerPoint presentation alongside a live online consultation (over a short or longer period) using a choice of tools. The community takes part by writing or posting content, not verbally. Moderation function is available.

- Forum: allows community to debate with others online in threaded conversations
- Questions tool: allows community to ask questions and presenters/moderators to quickly post answers.
- Guest book: allows community to respond to a topic and view others' responses without generating debate
- Quick poll tool: gathers sentiment on a single question and rapidly updates the results online
- Ideas tool: allows community to provide online ideas on a specific subject
- Places tool: allows community to drop pins on a map and provide place-based feedback
- Survey: allows community to provide private feedback and answers to questions
- Stories: allows people to share rich media including videos and images. Community comments on stories and a sentiment tracking feature so that people can like or dislike these comments can be enabled.

FINANCIAL IMPLICATIONS

Nil

ATTACHMENTS

Nil.

Item No: C0620(3) Item 9
Subject: INVESTMENT REPORT AS AT 31 MAY 2020
Prepared By: Brendhan Barry - Manager Financial Services
Authorised By: Daryl Jackson - Chief Financial Officer

RECOMMENDATION

THAT the report be received and noted.

DISCUSSION

Council's holding in various investment categories are listed in the table below. Council's portfolio size sits at \$223m, of which 91% are A rated or above. All Socially Responsible Investments (SRI's) are investments that comply with the Non-Fossil Fuel standards. Council's annualised return continues to exceed the bank bill index benchmark. Council's portfolio had a One-Month Portfolio Investment Return of 2.33%, above the UBSWA Bank Bill Index Benchmark (0.10%).

The attachments to this report summarise all investments held by Council and interest returns for periods ending 31 May 2020.

The Current Market value is required to be accounted for. The Current Market Value is a likely outcome if Council were to consider recalling the investment prior to its due date.

All investments made for the month of May 2020 have been made in accordance with the Local Government Act, Local Government Regulations and the Inner West Council Investment Policy.

ADI Lending Status *	Current Month (\$)		Previous Month (\$)	
Non Fossil Fuel Lending ADIs				
Bendigo and Adelaide Bank	9,000,000		9,000,000	
Credit Union Australia	2,000,000		2,000,000	
Emerald Reverse Mortgage 2006A	526,228		553,935	
Emerald Reverse Mortgage 2006B	1,000,000		1,000,000	
Heritage Bank	5,800,000		5,800,000	
Members Equity Bank	10,528,960		10,522,807	
Newcastle Permanent Building Society	1,700,000		1,700,000	
Suncorp Bank	45,750,000		45,750,000	
Suncorp Bank (Covered)	5,500,000		5,000,000	
Teachers Mutual Bank	4,000,000		4,000,000	
	85,805,188	38%	85,326,742	38%
Socially Responsible Investments				
ANZ Group (Green)	2,000,000		2,000,000	
Bank Australia (Sustainability)	6,000,000		6,000,000	
CBA (Climate)	18,200,000		18,200,000	
CBA (Green TD)	45,000,000		40,000,000	
National Australia Bank (Social)	7,444,000		7,444,000	
NSW T-Corp (Green)	5,000,000		5,000,000	
Westpac Group (Green TD)	54,000,000		59,000,000	
	137,644,000	62%	137,644,000	62%
	223,449,188		222,970,742	

EXTERNAL / INTERNAL RESTRICTIONS

Restricted	May 20
External Restrictions	99,074,098
Internal Restrictions	124,375,090
Total	223,449,188

ATTACHMENTS

1. [IWC May20](#)
2. [IWC Economic and Investment Portfolio Commentary May20](#)

INNER WEST

Investment Summary Report May 2020

Inner West Council Executive Summary - May 2020

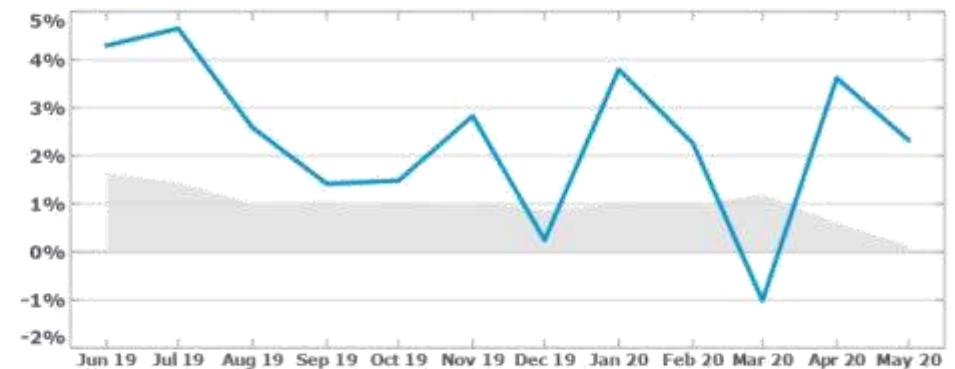


Investment Holdings

By Product	Face Value (\$)	Current Value (\$)	Current Yield (%)
Bonds	34,444,000.00	36,742,574.19	3.2137
Cash	8,528,959.90	8,528,959.90	0.8500
Floating Rate Note	45,950,000.00	46,080,400.88	1.2810
Mortgage Backed Security	1,526,227.97	1,096,058.89	0.7366
Term Deposit	133,000,000.00	133,282,620.82	1.3861
	223,449,187.87	225,730,614.68	1.6213

Face Value = capital value to be repaid upon maturity
Current Value = current market value + accrued interest
Current Yield = weighted average interest rate

Monthly Portfolio Return (%pa) based on Current Market Value of Securities



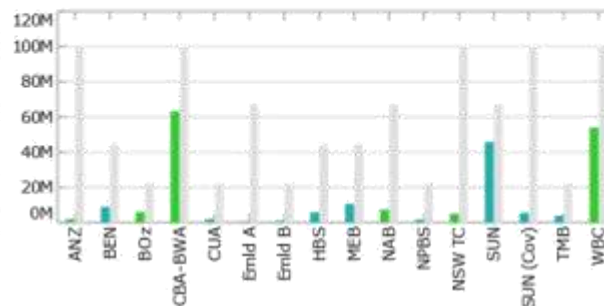
Portfolio Annualised Return Bloomberg BB Index Annualised Return

Investment Policy Compliance sorted by Socially Responsible Investments (SRIs) and non-Fossil Fuel (NFF) banks

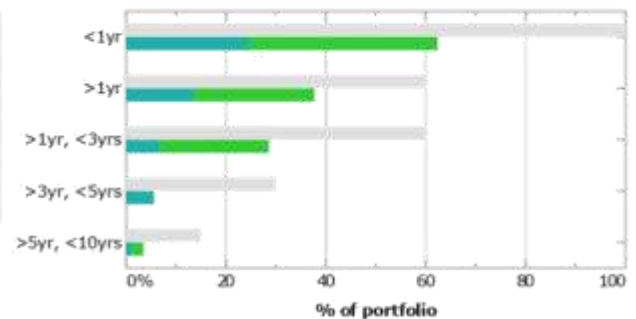
Total Credit Exposure



Individual Exposures



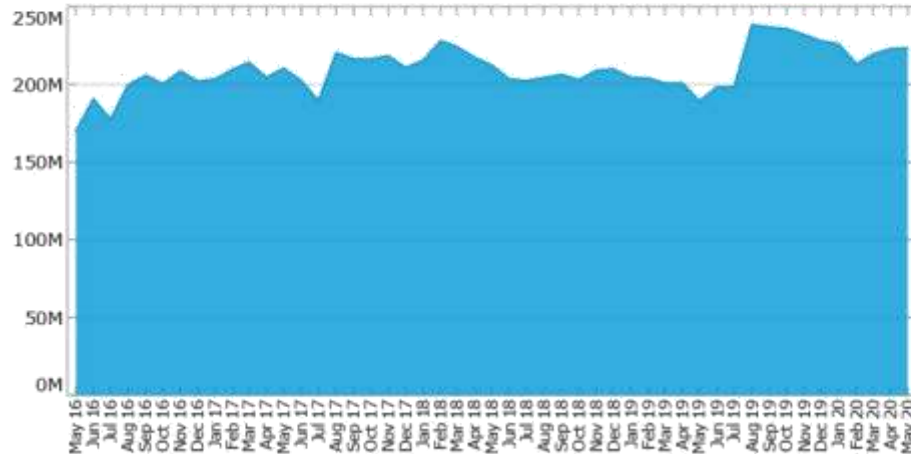
Term to Maturities



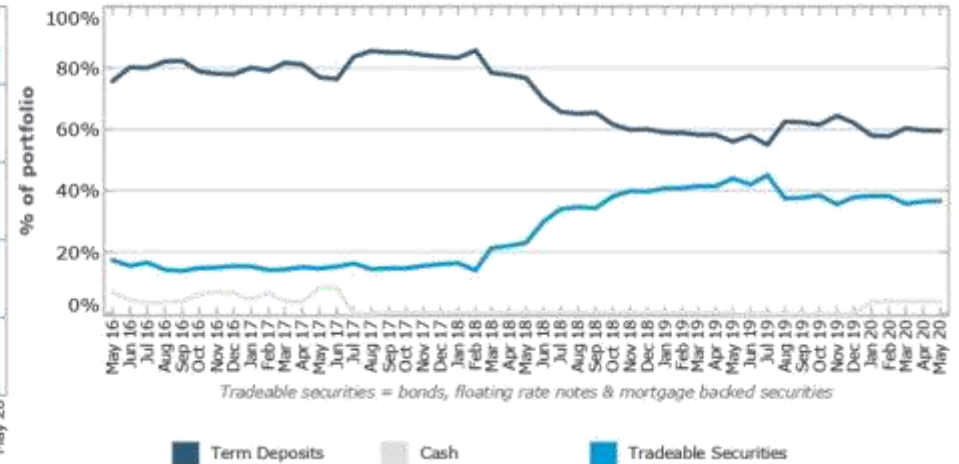
Inner West Council Historical Graphs - May 2020



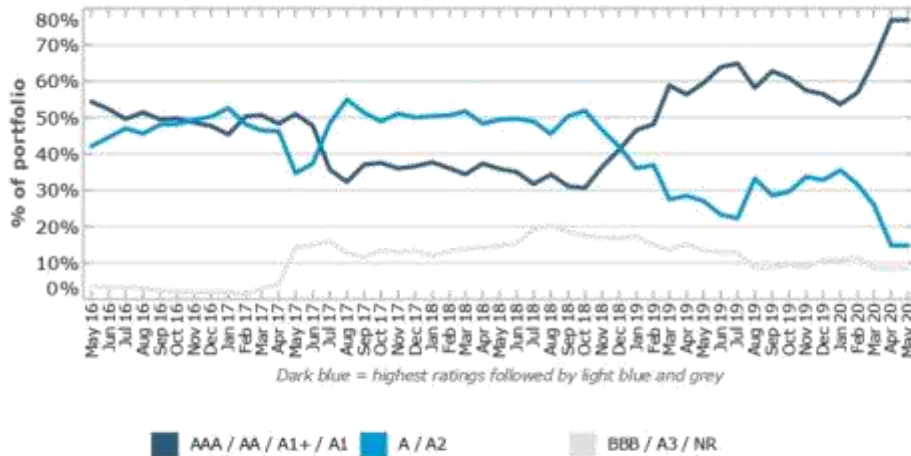
Month end investment balances since amalgamation



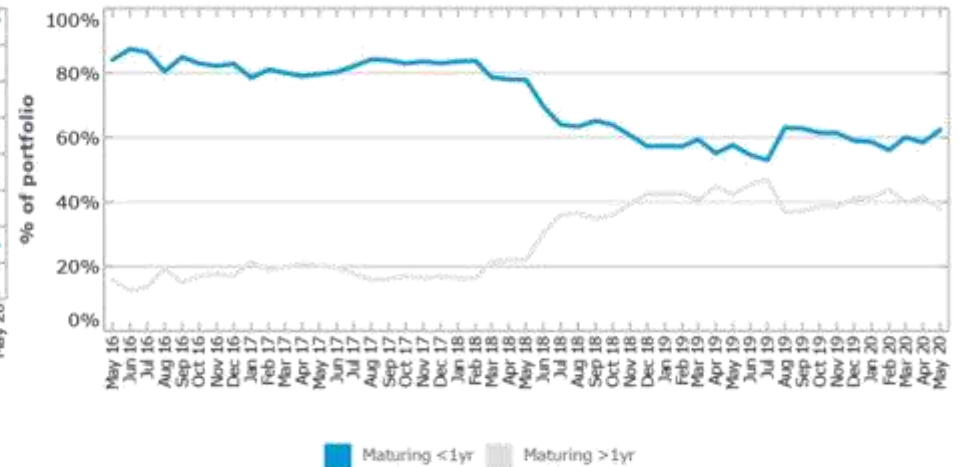
Composition of portfolio by asset type



Composition of portfolio by credit rating categories



Composition of portfolio by short (<1 yr) and long term (> 1 yr) holdings



Inner West Council Investment Holdings Report - May 2020



Cash Accounts

Face Value (\$)	Current Yield	Institution	Credit Rating	Current Value (\$)	Deal No.	Reference
8,528,959.90	0.8500%	ME Bank	A-2	8,528,959.90	539404	
8,528,959.90	0.8500%			8,528,959.90		

Term Deposits

Maturity Date	Face Value (\$)	Rate	Institution	Credit Rating	Purchase Price (\$)	Purchase Date	Current Value (\$)	Deal No.	Accrued Interest (\$)	Coupon Frequency	Reference
29-Jun-20	10,000,000.00	1.8700%	Westpac Group	A-1+	10,000,000.00	28-Jun-19	10,032,276.71	538090	32,276.71	Quarterly	Green
30-Jun-20	8,000,000.00	2.1800%	Westpac Group	A-1+	8,000,000.00	30-Apr-19	8,015,289.86	537914	15,289.86	Quarterly	Green
21-Jul-20	5,000,000.00	1.5000%	Suncorp Bank	A-1	5,000,000.00	18-Dec-19	5,034,109.59	538983	34,109.59	At Maturity	
18-Aug-20	7,500,000.00	1.7000%	Suncorp Bank	A-1	7,500,000.00	17-Mar-20	7,526,547.95	539575	26,547.95	At Maturity	
25-Aug-20	4,000,000.00	1.5000%	Suncorp Bank	A-1	4,000,000.00	29-Nov-19	4,030,410.96	538848	30,410.96	At Maturity	
28-Sep-20	10,000,000.00	1.5600%	Westpac Group	A-1+	10,000,000.00	27-Sep-19	10,028,208.22	538559	28,208.22	Quarterly	Green
21-Oct-20	7,500,000.00	1.7000%	Suncorp Bank	A-1	7,500,000.00	17-Mar-20	7,526,547.95	539576	26,547.95	At Maturity	
18-Nov-20	5,000,000.00	1.6300%	Suncorp Bank	A-1	5,000,000.00	31-Mar-20	5,013,843.84	539605	13,843.84	At Maturity	
16-Dec-20	5,000,000.00	1.5800%	Suncorp Bank	A-1	5,000,000.00	31-Mar-20	5,013,419.18	539606	13,419.18	At Maturity	
27-Jan-21	15,000,000.00	0.7500%	Commonwealth Bank of Australia	A-1+	15,000,000.00	29-May-20	15,000,924.66	539858	924.66	At Maturity	Green
24-Feb-21	10,000,000.00	0.7700%	Commonwealth Bank of Australia	A-1+	10,000,000.00	29-May-20	10,000,632.88	539859	632.88	At Maturity	Green
27-Apr-21	20,000,000.00	0.8100%	Commonwealth Bank of Australia	A-1+	20,000,000.00	29-Apr-20	20,014,646.58	539647	14,646.58	At Maturity	Green
21-May-21	9,000,000.00	1.4100%	Westpac Group	A-1+	9,000,000.00	21-Nov-19	9,003,824.38	538748	3,824.38	Quarterly	Green
26-Jul-21	3,000,000.00	1.5800%	Westpac Group	AA-	3,000,000.00	31-Jul-19	3,004,155.62	538346	4,155.62	Quarterly	Green
28-Jun-22	10,000,000.00	1.8700%	Westpac Group	AA-	10,000,000.00	28-Jun-19	10,032,276.71	538091	32,276.71	Quarterly	Green
25-Jul-22	4,000,000.00	1.5700%	Westpac Group	AA-	4,000,000.00	31-Jul-19	4,005,505.75	538347	5,505.75	Quarterly	Green
133,000,000.00	1.3861%				133,000,000.00		133,282,620.84		282,620.84		

Inner West Council Investment Holdings Report - May 2020



Floating Rate Notes

Maturity Date	Face Value (\$)	Current Coupon	Security Name	Credit Rating	Purchase Price (\$)	Purchase Date	Current Value (\$)	Deal No.	Accrued Interest (\$)	Next Coupon Reference Date
18-Aug-20	2,000,000.00	1.1978%	BEN Snr FRN (Aug20) BBSW+1.10%	A-2	2,000,000.00	18-Aug-15	2,003,538.86	505171	918.86	18-Aug-20
18-Aug-20	1,000,000.00	1.1978%	BEN Snr FRN (Aug20) BBSW+1.10%	A-2	1,000,000.00	18-Aug-15	1,001,769.43	505174	459.43	18-Aug-20
18-Aug-20	2,000,000.00	1.1978%	BEN Snr FRN (Aug20) BBSW+1.10%	A-2	2,000,000.00	18-Aug-15	2,003,538.86	505175	918.86	18-Aug-20
9-Nov-20	2,000,000.00	1.3462%	ME Bank Snr FRN (Nov20) BBSW+1.25%	A-2	2,000,000.00	9-Nov-17	2,005,409.05	535918	1,549.05	10-Aug-20
29-Mar-21	5,800,000.00	1.6217%	HBS Snr FRN (Mar21) BBSW+1.23%	P-2	5,800,000.00	29-Mar-18	5,837,926.77	536454	16,234.77	29-Jun-20
2-Jul-21	4,000,000.00	1.6672%	TMB Snr FRN (Jul21) BBSW+1.37%	BBB	4,000,000.00	2-Jul-18	4,028,802.41	536788	10,962.41	2-Jul-20
30-Aug-21	2,000,000.00	1.3950%	BOz 'SRI' Snr FRN (Aug21) BBSW+1.30%	BBB	2,000,000.00	30-Aug-18	2,010,609.32	536986	229.32	31-Aug-20
19-Jan-22	2,500,000.00	1.1350%	BEN Snr FRN (Jan22) BBSW+1.01%	BBB+	2,500,000.00	19-Oct-18	2,513,490.07	537202	3,265.07	20-Jul-20
16-Aug-22	1,000,000.00	1.0678%	SUN Snr FRN (Aug22) BBSW+0.97%	A+	1,000,000.00	16-Aug-17	1,006,309.57	535607	409.57	17-Aug-20
16-Aug-22	4,000,000.00	1.0678%	SUN Snr FRN (Aug22) BBSW+0.97%	A+	4,037,600.00	31-Oct-18	4,025,238.27	537263	1,638.27	17-Aug-20
2-Dec-22	4,000,000.00	1.4692%	BOz 'SRI' Snr FRN (Dec22) BBSW+0.90%	BBB	4,000,000.00	2-Dec-19	3,988,931.75	538824	14,651.75	2-Jun-20
25-Jan-23	1,500,000.00	1.1631%	BEN Snr FRN (Jan23) BBSW+1.05%	BBB+	1,500,000.00	25-Jan-18	1,505,617.95	536141	1,672.95	27-Jul-20
6-Feb-23	1,700,000.00	1.5054%	NPBS Snr FRN (Feb23) BBSW+1.40%	BBB	1,700,000.00	6-Feb-18	1,711,257.98	536175	1,822.98	6-Aug-20
30-Jul-24	6,000,000.00	0.8783%	SUN Snr FRN (Jul24) BBSW+0.78%	A+	6,000,000.00	30-Jul-19	5,970,480.10	538330	4,620.10	30-Jul-20
30-Jul-24	750,000.00	0.8783%	SUN Snr FRN (Jul24) BBSW+0.78%	A+	749,182.50	1-Oct-19	746,310.01	538563	577.51	30-Jul-20
24-Oct-24	2,000,000.00	1.2350%	CUA Snr FRN (Oct24) BBSW+1.12%	BBB	2,000,000.00	24-Oct-19	1,983,051.51	538603	2,571.51	24-Jul-20
24-Apr-25	3,700,000.00	1.2331%	SUN Cov FRN (Apr25) BBSW+1.12%	AAA	3,700,000.00	27-Apr-20	3,738,118.97	539640	4,374.97	24-Jul-20
45,950,000.00		1.2810%			45,986,782.50		46,080,400.88		66,877.38	

Fixed Rate Bonds

Maturity Date	Face Value (\$)	Coupon	Security Name	Credit Rating	Purchase Price (\$)	Purchase Date	Current Value (\$)	Deal No.	Accrued Interest (\$)	Purchase Yield	Reference
3-Jun-20	2,000,000.00	3.2500%	ANZ 'Green' Snr Bond (Jun20) 3.25%	A-1+	1,987,680.00	3-Jun-15	2,033,284.77	505284	32,144.81	3.3850%	
24-Mar-22	3,444,000.00	3.2500%	NAB 'Social' Snr Bond (Mar22) 3.25%	AA-	3,502,479.12	26-Jun-18	3,623,583.08	536771	20,986.88	3.0000%	
24-Mar-22	4,000,000.00	3.2500%	NAB 'Social' Snr Bond (Mar22) 3.25%	AA-	4,066,280.00	1-Nov-18	4,208,575.00	537279	24,375.00	2.8400%	

Inner West Council Investment Holdings Report - May 2020



Fixed Rate Bonds

Maturity Date	Face Value (\$)	Coupon	Security Name	Credit Rating	Purchase Price (\$)	Purchase Date	Current Value (\$)	Deal No.	Accrued Interest (\$)	Purchase Yield	Reference
31-Mar-22	10,000,000.00	3.2500%	CBA 'Climate' Snr Bond (Mar22) 3.25%	AA-	10,088,200.00	28-Mar-18	10,520,054.64	536469	55,054.64	3.0348%	
31-Mar-22	1,100,000.00	3.2500%	CBA 'Climate' Snr Bond (Mar22) 3.25%	AA-	1,111,198.00	22-May-18	1,157,206.01	536652	6,056.01	3.1115%	
31-Mar-22	3,100,000.00	3.2500%	CBA 'Climate' Snr Bond (Mar22) 3.25%	AA-	3,143,462.00	13-Jun-18	3,261,216.94	536721	17,066.94	3.0592%	
31-Mar-22	4,000,000.00	3.2500%	CBA 'Climate' Snr Bond (Mar22) 3.25%	AA-	4,083,240.00	31-Jul-18	4,208,021.86	536896	22,021.86	2.9908%	
24-Aug-26	1,300,000.00	3.2500%	SUN Cov Bond (Aug26) 3.25%	AAA	1,427,881.00	30-Apr-20	1,437,215.00	539692	11,375.00	1.7000%	
24-Aug-26	500,000.00	3.2500%	SUN Cov Bond (Aug26) 3.25%	AAA	549,310.00	5-May-20	552,775.00	539728	4,375.00	1.7000%	
15-Nov-28	5,000,000.00	3.0000%	NSWTC 'Green' Snr Bond (Nov28) 3.00%	AAA	4,900,300.00	15-Nov-18	5,740,641.89	537310	6,891.89	3.2350%	
34,444,000.00					34,860,030.12		36,742,574.19		200,348.03	2.9879%	

Mortgage Backed Securities

Weighted Avg Life	Face Value (\$)	Current Coupon	Security Name	Rating	Purchase Price (\$)	Purchase Date	Current Value (\$)	Deal No.	Accrued Interest (\$)	Reference
22-Aug-22	526,227.97	0.5400%	Emerald Reverse Mortgage (2006A)	AA	1,000,000.00	17-Jul-06	415,805.74	310321	85.64	
23-Aug-27	1,000,000.00	0.8400%	Emerald Reverse Mortgage (2006B)	BBB	1,000,000.00	17-Jul-06	680,253.15	310334	253.15	
1,526,227.97					2,000,000.00		1,096,058.89		338.79	

Inner West Council Accrued Interest Report - May 2020



Accrued Interest Report

Investment	Deal No.	Ref	Face Value (\$)	Settlement Date	Maturity Date	Interest Received (\$)	Days	Interest Accrued (\$)	Percentage Return
Bonds									
ANZ 'Green' Snr Bond (Jun20) 3.25%	505284		2,000,000.00	03-Jun-15	03-Jun-20		31	5,505.47	3.24%
NAB 'Social' Snr Bond (Mar22) 3.25%	536771		3,444,000.00	26-Jun-18	24-Mar-22		31	9,428.89	3.22%
NAB 'Social' Snr Bond (Mar22) 3.25%	537279		4,000,000.00	01-Nov-18	24-Mar-22		31	10,951.09	3.22%
CBA 'Climate' Snr Bond (Mar22) 3.25%	536469		10,000,000.00	29-Mar-18	31-Mar-22		31	27,527.32	3.24%
CBA 'Climate' Snr Bond (Mar22) 3.25%	536652		1,100,000.00	24-May-18	31-Mar-22		31	3,028.00	3.24%
CBA 'Climate' Snr Bond (Mar22) 3.25%	536721		3,100,000.00	13-Jun-18	31-Mar-22		31	8,533.47	3.24%
CBA 'Climate' Snr Bond (Mar22) 3.25%	536896		4,000,000.00	31-Jul-18	31-Mar-22		31	11,010.93	3.24%
SUN Cov Bond (Aug26) 3.25%	539692		1,300,000.00	30-Apr-20	24-Aug-26		31	3,598.22	3.26%
SUN Cov Bond (Aug26) 3.25%	539728		500,000.00	05-May-20	24-Aug-26	-3,169.64	27	1,205.36	3.26%
NSWTC 'Green' Snr Bond (Nov28) 3.00%	537310		5,000,000.00	15-Nov-18	15-Nov-28	75,000.00	31	12,661.12	2.98%
Bonds Total						71,830.36		93,449.87	3.20%
Cash									
ME Bank	539404		8,528,959.90			6,152.83	31	6,152.83	.85%
Cash Total						6,152.83		6,152.83	.85%
Floating Rate Note									
BEN Snr FRN (Aug20) BBSW+1.10%	505171		2,000,000.00	18-Aug-15	18-Aug-20	9,863.01	31	2,781.87	1.64%
BEN Snr FRN (Aug20) BBSW+1.10%	505174		1,000,000.00	18-Aug-15	18-Aug-20	4,931.51	31	1,390.94	1.64%
BEN Snr FRN (Aug20) BBSW+1.10%	505175		2,000,000.00	18-Aug-15	18-Aug-20	9,863.01	31	2,781.87	1.64%
ME Bank Snr FRN (Nov20) BBSW+1.25%	535918		2,000,000.00	09-Nov-17	09-Nov-20	10,770.41	31	2,732.61	1.61%
HBS Snr FRN (Mar21) BBSW+1.23%	536454		5,800,000.00	29-Mar-18	29-Mar-21		31	7,988.54	1.62%
TMB Snr FRN (Jul21) BBSW+1.37%	536788		4,000,000.00	02-Jul-18	02-Jul-21		31	5,663.91	1.67%
BOz 'SRI' Snr FRN (Aug21) BBSW+1.30%	536986		2,000,000.00	30-Aug-18	30-Aug-21	10,521.10	31	3,466.58	2.04%

Inner West Council Accrued Interest Report - May 2020



Accrued Interest Report

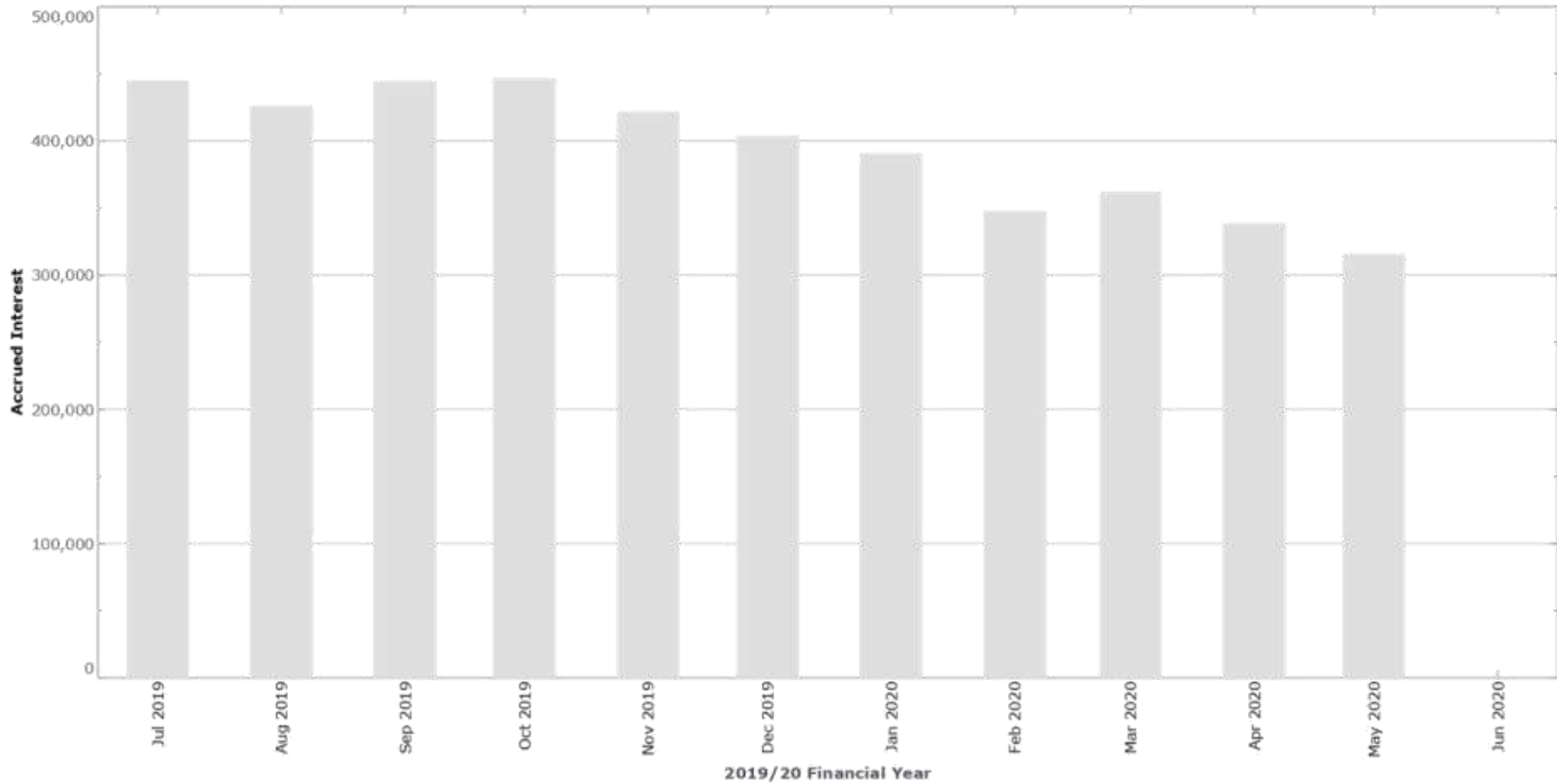
Investment	Deal No.	Ref	Face Value (\$)	Settlement Date	Maturity Date	Interest Received (\$)	Days	Interest Accrued (\$)	Percentage Return
BEN Snr FRN (Jan22) BBSW+1.01%	537202		2,500,000.00	19-Oct-18	19-Jan-22		31	2,409.93	1.13%
SUN Snr FRN (Aug22) BBSW+0.97%	535607		1,000,000.00	16-Aug-17	16-Aug-22	4,678.65	31	1,283.61	1.51%
SUN Snr FRN (Aug22) BBSW+0.97%	537263		4,000,000.00	31-Oct-18	16-Aug-22	18,714.59	31	5,134.41	1.51%
BOZ 'SRI' Snr FRN (Dec22) BBSW+0.90%	538824		4,000,000.00	02-Dec-19	02-Dec-22		31	4,991.26	1.47%
BEN Snr FRN (Jan23) BBSW+1.05%	536141		1,500,000.00	25-Jan-18	25-Jan-23		31	1,481.76	1.16%
NPBS Snr FRN (Feb23) BBSW+1.40%	536175		1,700,000.00	06-Feb-18	06-Feb-23	9,703.97	31	2,362.09	1.64%
SUN Snr FRN (Jul24) BBSW+0.78%	538330		6,000,000.00	30-Jul-19	30-Jul-24		31	4,475.72	.88%
SUN Snr FRN (Jul24) BBSW+0.78%	538563		750,000.00	01-Oct-19	30-Jul-24		31	559.46	.88%
CUA Snr FRN (Oct24) BBSW+1.12%	538603		2,000,000.00	24-Oct-19	24-Oct-24		31	2,097.81	1.24%
SUN Cov FRN (Apr25) BBSW+1.12%	539640		3,700,000.00	27-Apr-20	24-Apr-25		31	3,874.97	1.23%
Floating Rate Note Total						79,046.25		55,477.34	1.42%
<u>Mortgage Backed Securities</u>									
Emerald Reverse Mortgage Series 2006-1 Class A	310321		526,227.97	17-Jul-06	22-Aug-22	1,826.44	31	491.52	1.10%
Emerald Reverse Mortgage Series 2006-1 Class B	310334		1,000,000.00	17-Jul-06	23-Aug-27	4,036.93	31	1,150.24	1.35%
Mortgage Backed Securities Total						5,863.37		1,641.76	1.27%
<u>Term Deposits</u>									
Westpac Group	537590		5,000,000.00	28-Feb-19	28-May-20	32,054.79	27	9,616.43	2.60%
Commonwealth Bank of Australia	539724		20,000,000.00	30-Apr-20	28-May-20	7,671.23	27	7,397.26	.50%
Westpac Group	538090		10,000,000.00	28-Jun-19	29-Jun-20		31	15,882.19	1.87%
Westpac Group	537914		8,000,000.00	30-Apr-19	30-Jun-20		31	14,812.05	2.18%
Suncorp Bank	538983		5,000,000.00	18-Dec-19	21-Jul-20		31	6,369.86	1.50%
Suncorp Bank	539575		7,500,000.00	17-Mar-20	18-Aug-20		31	10,828.77	1.70%
Suncorp Bank	538848		4,000,000.00	29-Nov-19	25-Aug-20		31	5,095.89	1.50%

Inner West Council
Accrued Interest Report - May 2020



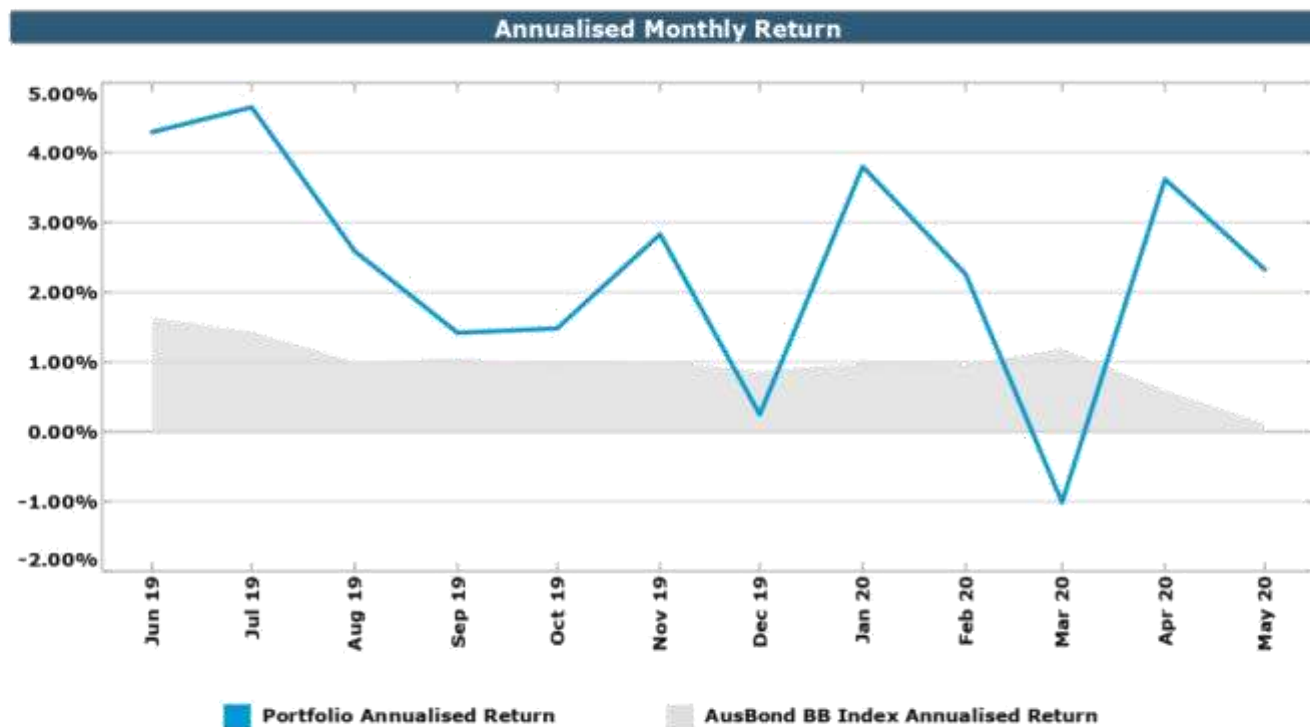
Accrued Interest Report									
Investment	Deal No.	Ref	Face Value (\$)	Settlement Date	Maturity Date	Interest Received (\$)	Days	Interest Accrued (\$)	Percentage Return
Westpac Group	538559		10,000,000.00	27-Sep-19	28-Sep-20		31	13,249.32	1.56%
Suncorp Bank	539576		7,500,000.00	17-Mar-20	21-Oct-20		31	10,828.77	1.70%
Suncorp Bank	539605		5,000,000.00	31-Mar-20	18-Nov-20		31	6,921.92	1.63%
Suncorp Bank	539606		5,000,000.00	31-Mar-20	16-Dec-20		31	6,709.59	1.58%
Commonwealth Bank of Australia	539858		15,000,000.00	29-May-20	27-Jan-21		3	924.66	.75%
Commonwealth Bank of Australia	539859		10,000,000.00	29-May-20	24-Feb-21		3	632.88	.77%
Commonwealth Bank of Australia	539647		20,000,000.00	29-Apr-20	27-Apr-21		31	13,758.91	.81%
Westpac Group	538748		9,000,000.00	21-Nov-19	21-May-21	31,290.41	31	10,777.80	1.41%
Westpac Group	538346		3,000,000.00	31-Jul-19	26-Jul-21		31	4,025.76	1.58%
Westpac Group	538091		10,000,000.00	28-Jun-19	28-Jun-22		31	15,882.19	1.87%
Westpac Group	538347		4,000,000.00	31-Jul-19	25-Jul-22		31	5,333.70	1.57%
Term Deposits Total						71,016.43		159,047.95	1.42%
						233,909.24		315,769.75	1.67%

Inner West Council
Accrued Interest Report - May 2020



Inner West Council

Investment Performance Report - May 2020



Historical Performance Summary

	Portfolio	AusBond BB Index	Outperformance
May 2020	2.33%	0.10%	2.22%
Last 3 Months	1.60%	0.62%	0.98%
Last 6 Months	1.84%	0.77%	1.07%
Financial Year to Date	2.18%	0.91%	1.27%
Last 12 months	2.36%	0.97%	1.39%

Inner West Council

Environmental Commitments Report - May 2020

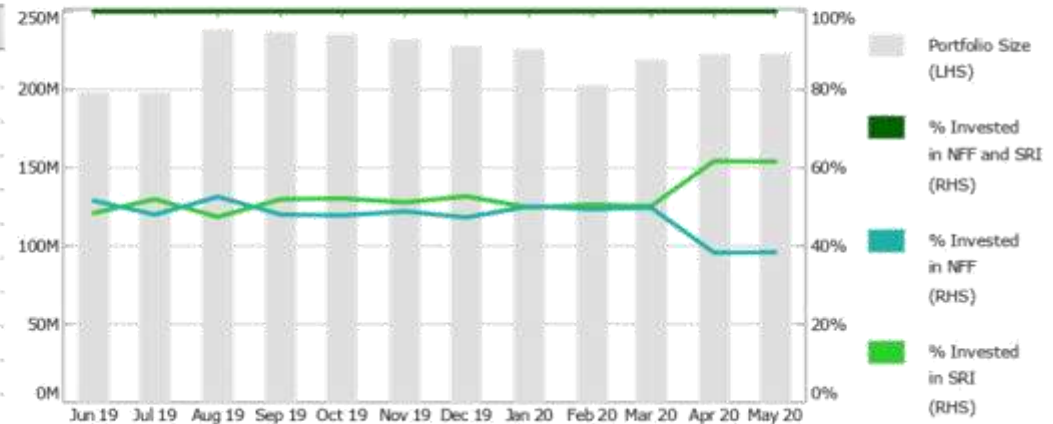


Current Breakdown

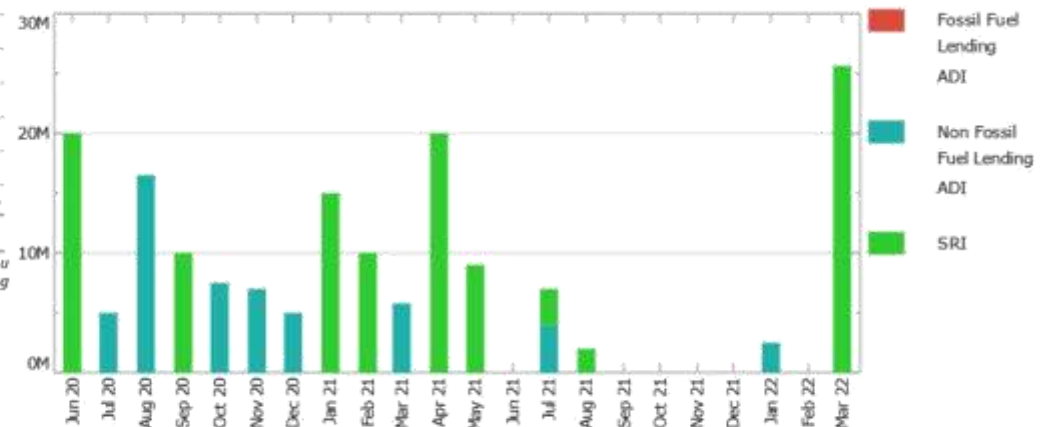
ADI Lending Status *	Current Month (\$)	Previous Month (\$)
Non Fossil Fuel Lending ADIs		
Bendigo and Adelaide Bank	9,000,000	9,000,000
Credit Union Australia	2,000,000	2,000,000
Emerald Reverse Mortgage 2006A	526,228	553,935
Emerald Reverse Mortgage 2006B	1,000,000	1,000,000
Heritage Bank	5,800,000	5,800,000
Members Equity Bank	10,528,960	10,522,807
Newcastle Permanent Building Society	1,700,000	1,700,000
Suncorp Bank	45,750,000	45,750,000
Suncorp Bank (Covered)	5,500,000	5,000,000
Teachers Mutual Bank	4,000,000	4,000,000
	85,805,188 38%	85,326,742 38%
Socially Responsible Investments		
ANZ Group (Green)	2,000,000	2,000,000
Bank Australia (Sustainability)	6,000,000	6,000,000
CBA (Climate)	18,200,000	18,200,000
CBA (Green TD)	45,000,000	40,000,000
National Australia Bank (Social)	7,444,000	7,444,000
NSW T-Corp (Green)	5,000,000	5,000,000
Westpac Group (Green TD)	54,000,000	59,000,000
	137,644,000 62%	137,644,000 62%
	223,449,188	222,970,742

* source: <http://www.marketforces.org.au>
Percentages may not add up to 100% due to rounding

Historical Portfolio Exposure to NFF Lending ADIs and SRIs

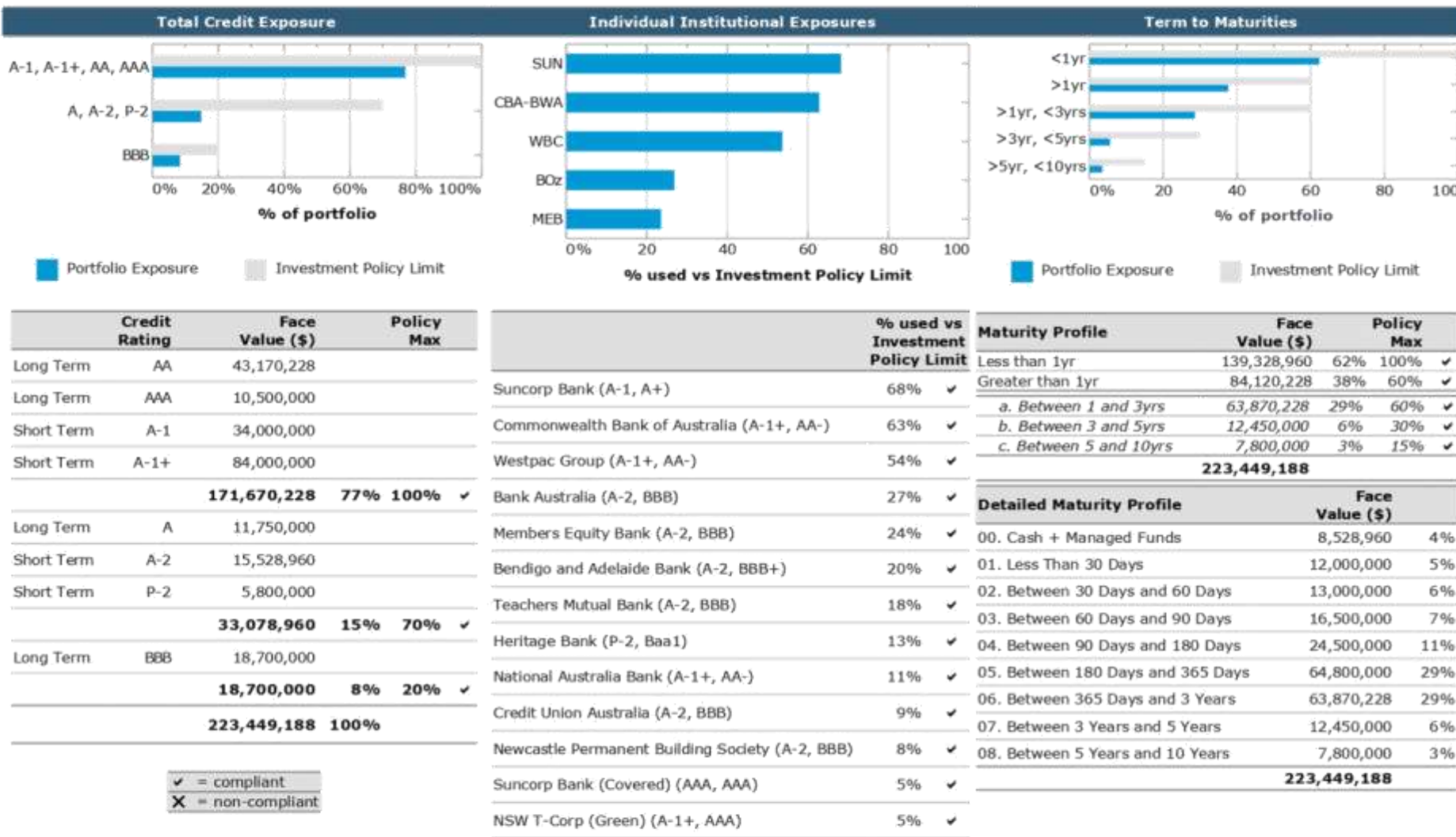


Upcoming maturities



Inner West Council

Investment Policy Compliance Report - May 2020



Inner West Council

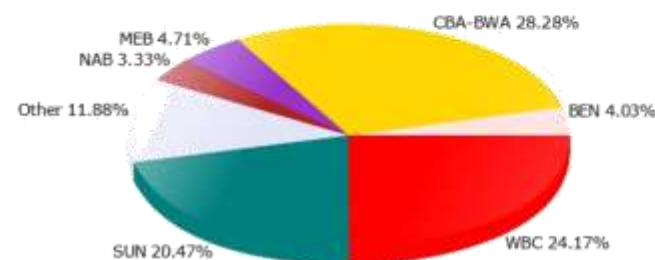
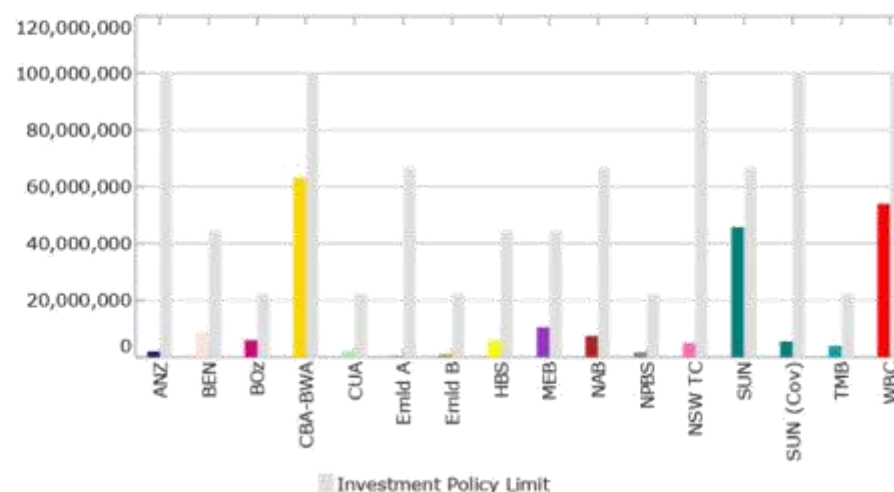
Individual Institutional Exposures Report - May 2020



Individual Institutional Exposures

Parent Group	Credit Rating	Portfolio Exposure (\$)	Investment Policy Limit (\$)
ANZ Group	A-1+, AA-	2,000,000	100,552,135
Bank Australia	A-2, BBB	6,000,000	22,344,919
Bendigo and Adelaide Bank	A-2, BBB+	9,000,000	44,689,838
Commonwealth Bank of Australia	A-1+, AA-	63,200,000	100,552,135
Credit Union Australia	A-2, BBB	2,000,000	22,344,919
Emerald Reverse Mortgage 2006A	AA	526,228	67,034,756
Emerald Reverse Mortgage 2006B	BBB	1,000,000	22,344,919
Heritage Bank	P-2, Baa1	5,800,000	44,689,838
Members Equity Bank	A-2, BBB	10,528,960	44,689,838
National Australia Bank	A-1+, AA-	7,444,000	67,034,756
Newcastle Permanent Building Society	A-2, BBB	1,700,000	22,344,919
NSW T-Corp (Green)	A-1+, AAA	5,000,000	100,552,135
Suncorp Bank	A-1, A+	45,750,000	67,034,756
Suncorp Bank (Covered)	AAA, AAA	5,500,000	100,552,135
Teachers Mutual Bank	A-2, BBB	4,000,000	22,344,919
Westpac Group	A-1+, AA-	54,000,000	100,552,135
		223,449,188	

Individual Institutional Exposure Charts



Inner West Council Cash Flows Report - May 2020



Current Month Cashflows

Transaction Date	Deal No.	Cashflow Counterparty	Asset Type	Cashflow Description	Cashflow Received
5-May-20	539728	Suncorp Bank (Covered)	Bonds	Premium - Paid	-46,140.36
		Suncorp Bank (Covered)	Bonds	Settlement Accrued Coupon - Paid	-3,169.64
		Suncorp Bank (Covered)	Bonds	Settlement Face Value - Paid	-500,000.00
				<u>Deal Total</u>	<u>-549,310.00</u>
				Day Total	-549,310.00
6-May-20	536175	Newcastle Permanent Building Society	Floating Rate Note	Coupon - Received	9,703.97
				<u>Deal Total</u>	<u>9,703.97</u>
				Day Total	9,703.97
11-May-20	535918	ME Bank	Floating Rate Note	Coupon - Received	10,770.41
				<u>Deal Total</u>	<u>10,770.41</u>
				Day Total	10,770.41
15-May-20	537310	NSW T-Corp (Green)	Bonds	Coupon - Received	75,000.00
				<u>Deal Total</u>	<u>75,000.00</u>
				Day Total	75,000.00
18-May-20	505171	Bendigo and Adelaide Bank	Floating Rate Note	Coupon - Received	9,863.01
				<u>Deal Total</u>	<u>9,863.01</u>
	505174	Bendigo and Adelaide Bank	Floating Rate Note	Coupon - Received	4,931.51
				<u>Deal Total</u>	<u>4,931.51</u>
	505175	Bendigo and Adelaide Bank	Floating Rate Note	Coupon - Received	9,863.01
				<u>Deal Total</u>	<u>9,863.01</u>
	535607	Suncorp Bank	Floating Rate Note	Coupon - Received	4,678.65
				<u>Deal Total</u>	<u>4,678.65</u>
	537263	Suncorp Bank	Floating Rate Note	Coupon - Received	18,714.59
				<u>Deal Total</u>	<u>18,714.59</u>
				Day Total	48,050.77
21-May-20	310321	Emerald Reverse Mortgage (2006A)	Mortgage Backed Securities	Coupon - Received	1,826.44
		Emerald Reverse Mortgage (2006A)	Mortgage Backed Securities	Amortised Face Value - Received	27,707.43
				<u>Deal Total</u>	<u>29,533.87</u>

Inner West Council
Cash Flows Report - May 2020



Current Month Cashflows

Transaction Date	Deal No.	Cashflow Counterparty	Asset Type	Cashflow Description	Cashflow Received
	310334	Emerald Reverse Mortgage (2006B)	Mortgage Backed Securities	Coupon - Received	4,036.93
				<u>Deal Total</u>	<u>4,036.93</u>
	538748	Westpac Group	Term Deposits	Interest - Received	31,290.41
				<u>Deal Total</u>	<u>31,290.41</u>
				Day Total	64,861.21
28-May-20	537590	Westpac Group	Term Deposits	Maturity Face Value - Received	5,000,000.00
		Westpac Group	Term Deposits	Interest - Received	32,054.79
				<u>Deal Total</u>	<u>5,032,054.79</u>
	539724	Commonwealth Bank of Australia	Term Deposits	Maturity Face Value - Received	20,000,000.00
		Commonwealth Bank of Australia	Term Deposits	Interest - Received	7,671.23
				<u>Deal Total</u>	<u>20,007,671.23</u>
				Day Total	25,039,726.03
29-May-20	536986	Bank Australia	Floating Rate Note	Coupon - Received	10,521.10
				<u>Deal Total</u>	<u>10,521.10</u>
	539858	Commonwealth Bank of Australia	Term Deposits	Settlement Face Value - Paid	-15,000,000.00
				<u>Deal Total</u>	<u>-15,000,000.00</u>
	539859	Commonwealth Bank of Australia	Term Deposits	Settlement Face Value - Paid	-10,000,000.00
				<u>Deal Total</u>	<u>-10,000,000.00</u>
				Day Total	-24,989,478.90
				Net Cash Movement for Period	-290,676.51

Next Month Cashflows

Transaction Date	Deal No.	Cashflow Counterparty	Asset Type	Cashflow Description	Cashflow Due
2-Jun-20	538824	Bank Australia	Floating Rate Note	Coupon - Received	14,812.76
				<u>Deal Total</u>	<u>14,812.76</u>
				Day Total	14,812.76
3-Jun-20	505284	ANZ Banking Group	Bonds	Coupon - Received	32,500.00
		ANZ Banking Group	Bonds	Maturity Face Value - Received	2,000,000.00

Inner West Council
Cash Flows Report - May 2020



Next Month Cashflows

<u>Transaction Date</u>	<u>Deal No.</u>	<u>Cashflow Counterparty</u>	<u>Asset Type</u>	<u>Cashflow Description</u>	<u>Cashflow Due</u>
					<u>Deal Total</u>
					2,032,500.00
					Day Total
					2,032,500.00
29-Jun-20	536454	Heritage Bank	Floating Rate Note	Coupon - Received	23,450.23
					<u>Deal Total</u>
					<u>23,450.23</u>
	538090	Westpac Group	Term Deposit	Maturity Face Value - Received	10,000,000.00
		Westpac Group	Term Deposit	Interest - Received	46,621.92
					<u>Deal Total</u>
					<u>10,046,621.92</u>
	538091	Westpac Group	Term Deposit	Interest - Received	46,621.92
					<u>Deal Total</u>
					<u>46,621.92</u>
	538559	Westpac Group	Term Deposit	Interest - Received	40,175.34
					<u>Deal Total</u>
					<u>40,175.34</u>
					Day Total
					10,156,869.40
30-Jun-20	537914	Westpac Group	Term Deposit	Maturity Face Value - Received	8,000,000.00
		Westpac Group	Term Deposit	Interest - Received	29,146.30
					<u>Deal Total</u>
					<u>8,029,146.30</u>
					Day Total
					8,029,146.30
					Net Cash Movement for Period
					20,233,328.46

Inner West Council Economic and Investment Portfolio Commentary May 2020

Investment Portfolio Commentary

Council's investment portfolio posted a return of 2.33%pa for the month of May versus the bank bill index benchmark return of 0.10%pa. For the past 12 months, the investment portfolio returned 2.36%pa, exceeding the bank bill index benchmark's 0.97%pa by 1.39%pa.

Prices of floating rate notes continued to bounce back in May with major bank securities now trading back to their pre-Covid levels while Council's fixed rated portfolio also traded strongly during the month.

Without marked-to-market influences, Council's investment portfolio yielded 1.67%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/deposits.

During May, Council's investment portfolio had \$25m in two TDs mature: 1 month (\$20m @ 0.50%pa) and 15 month (\$5m @ 2.60%pa) with a weighted average rate of 0.91%pa. Council made two new deposits of \$10m and \$15m in 3 & 4 month CBA "Green" deposits at an average rate of 0.74%pa.

Council's entire investment portfolio remains invested in non fossil fuel lending ADIs (38% of portfolio) and socially responsible investments (62% of portfolio).

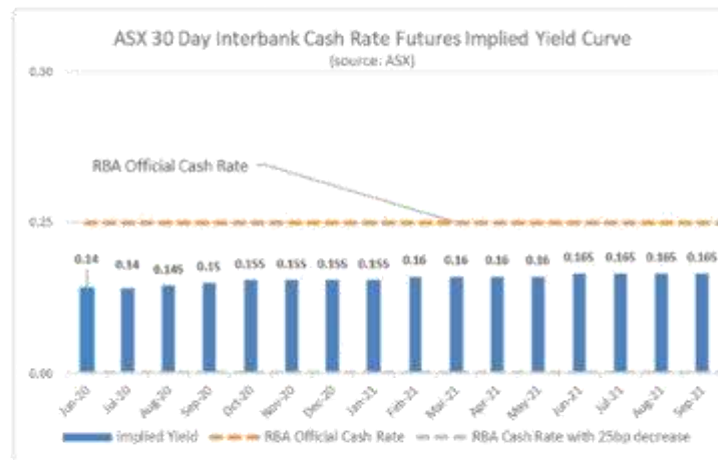
Over the past several months, Council has proactively reduced its exposure to banks with long term credit ratings in the BBB+ and BBB categories in order to comply with NSW TCorp loan covenant requirements. This goal has now been achieved on schedule and Council's portfolio is now in full compliance with the NSW TCorp requirements while continuing to be well-diversified among a range of term deposits, fixed and floating rate notes from highly rated Australian ADIs and NSW TCorp.

Domestic issues:

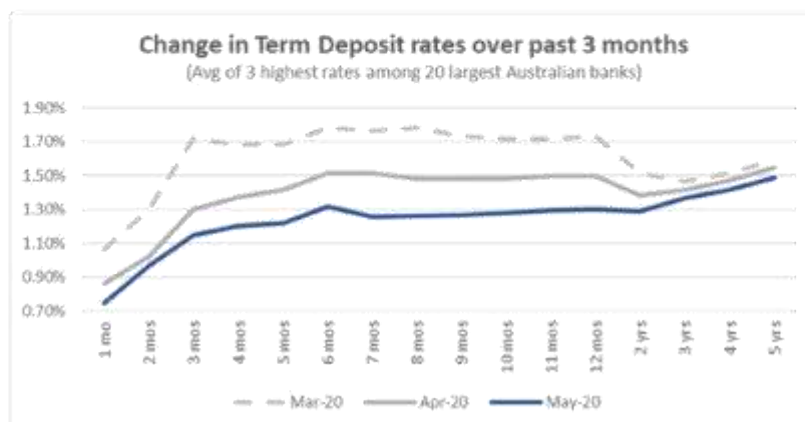
- In Australia, latest jobless claims were predictably dire however the JobSeeker and JobKeeper benefit packages were credited with keeping the unemployment figure lower than expected for the March quarter at 6.2%. The RBA is bracing for unemployment to hit 10% for the June quarter.
- The housing market has suffered with potential buyers waiting out uncertain times and on-site inspections being limited by social distancing requirements. Lower population growth, i.e. immigration, and stretched personal budgets are expected to keep downward pressure on forecasted property prices through mid/late 2021 across Sydney (fcst -8%), Melbourne (fcst -9.5%) Brisbane (fcst -4.5%) and Perth (fcst -0.2%).
- During May, the Australian share market continued its upward trend following its low on March 23. Still down approximately 20% from its late-February peak, the Australian market has recovered nearly half of its March losses. Economists caution that further sell-offs can occur, particularly if a second wave of the virus takes hold and if news of economic recovery and vaccine breakthroughs prove overly optimistic.
- The AUD/USD closed out the month at 66.6c continuing its upward trend from mid-March when it hit a low of 55c.

Interest rates

- The RBA kept the official cash rate at 0.25%pa at its May meeting. Internal policy measures by the central bank are keeping market rates lower than the official 0.25%pa, but there is no expectation of another interest rate cut any time soon:



- Average term deposit rates continued their downward trend in May. The average of the best term deposit rates among large banks were 5-15 basis points lower across the 1mo to 5 year range versus April month end and sharply lower than just 2 months ago.



- The RBA's policy measures to provide more and cheaper funding to the Australian banking system, along with a general slowdown in banks' funding needs, have contributed the fall term deposit rates over the past several months.

Global issues:

- Worldwide coronavirus cases continued to increase on a daily basis throughout the month. Fearing severe long lasting economic fallout, several early-infected countries began loosening lockdown restrictions despite concerns from health officials of a second wave being triggered.
- The UK and New Zealand central banks are the latest to admit negative interest rates remain an option for them as they attempt to restart their economies. The US Federal Reserve and Australia's RBA remain staunchly against the action citing inconclusive evidence of the effectiveness of negative official cash rates, preferring to put increased emphasis on fiscal policy and quantitative easing (cash injections through the banking system).
- The International Monetary Fund is predicting the economy of the Asia Pacific region to recover sooner and stronger than other key global areas over the next two years: Asia Pac: +1% in 2020 & +8.5% in 2021; US: -6% & +4.7%; Eur: -7.5% & 4.7%

Disclaimer: The statements and opinions contained in this report are based on currently prevailing conditions in financial markets and are so contained in good faith and in the belief that such statements and opinion are not false or misleading. In preparing this report, Prudential Investment Services Corp has relied upon information which it believes to be reliable and accurate. Prudential Investment Services Corp believes that this report and the opinions expressed in this report are accurate, but no warranty of accuracy or reliability is given. Prudential Investment Services Corp does not warrant that its investigation has revealed all of the matters which a more extensive examination might disclose. This report may not be reproduced, transmitted, or made available either in part or in whole to any third party without the prior written consent of Prudential Investment Services Corp. APS Licence No. 468145.

Item No: C0620(3) Item 10
Subject: ASHFIELD AQUATIC CENTRE - PROGRESS UPDATE
Prepared By: Cathy Edwards-Davis - Director Infrastructure
Authorised By: Michael Deegan - Chief Executive Officer

RECOMMENDATION

THAT Council receive and note the report.

DISCUSSION

Subject to any approved extensions of time, practical completion is on-target for 1 September 2020.

Progress on-site is as follows:

Pools

- Leisure pool - water testing has been completed. Tiling is nearing completion.
- Program pool – tiling is complete.
- 50m pool – tiling to the floors and walls is nearing completion
- Spa - structure is currently curing and will undergo a water test once complete.

Main Building

- Internal fit out of the Northern building is ongoing
- Painting to the roof on L2 is complete, painting to the walls is ongoing.
- Tiling to the L2 toilets and changerooms is complete.
- The lattice is currently being installed on the Northern façade.
- Installation of the timber to the Northern façade is ongoing.
- Timber ceiling from the reception to the main pool hall entry is nearing completion.

Other

- The southern embankment retaining wall is complete.
- The umpire grandstand enclosure has been poured and is currently curing.

The builder has established procedures to mitigate, where possible, the spread of COVID-19 onsite. There are no known cases amongst workers.

FINANCIAL IMPLICATIONS

The project is on budget. The approved budget for the Ashfield Aquatic Centre redevelopment is \$44,752,145. As at the end of April 2020, expenditure was \$29,161,769 (65.2%).

ATTACHMENTS

Nil.

Item No: C0620(3) Item 11
Subject: AMENDED COUNCIL MEETING SCHEDULE
Prepared By: Ian Naylor - Manager Civic Governance
Authorised By: Melodie Whiting - Director Corporate

RECOMMENDATION

THAT Council adopt the amended 2020 Council Meeting Schedule and publish the schedule on the Council Website.

DISCUSSION

Council adopted the 2020 Council Meeting schedule on 12 November 2019. Since that time, the local government elections scheduled in September have been postponed for 12 months. This report proposes that Council schedule Council Meetings on 2nd and 4th Tuesdays of August and September. The amended 2020 Council Meeting Schedule is shown as Attachment 1

FINANCIAL IMPLICATIONS

Nil.

ATTACHMENTS

1. [Amended 2020 Council Meeting Schedule](#)



INNER WEST COUNCIL

Meeting Date
Tuesday, 11 February 2020
Tuesday, 25 February 2020
Tuesday, 10 March 2020
Tuesday, 24 March 2020
Tuesday, 14 April 2020
Tuesday, 28 April 2020
Tuesday, 12 May 2020
Tuesday, 26 May 2020
Tuesday, 9 June 2020
Tuesday, 23 June 2020
Tuesday, 28 July 2020
Tuesday, 11 August 2020
Tuesday, 25 August 2020
Tuesday, 8 September 2020
Tuesday, 22 September 2020 (Deputy Mayor Election)
Tuesday, 13 October 2020
Tuesday, 27 October 2020
Tuesday, 10 November 2020
Tuesday, 24 November 2020
Tuesday, 8 December 2020

P.O. Box 14 Petersham 2049 | P (02) 9392 5000 | E council@innerwest.nsw.gov.au

Customer Service Centres | **Petersham** 2-14 Fisher Street | **Leichhardt** 7-15 Wetherill Street | **Ashfield** 260 Liverpool Road

Item No: C0620(3) Item 12
Subject: NOTICE OF MOTION: TRAFFIC CHANGES ON PARRAMATTA ROAD
 HABERFIELD
From: Deputy Mayor, Councillor Vittoria Raciti

MOTION:

THAT Council:

1. Immediately implements the unanimous Council resolution on August 2019 to close Chandos Street Haberfield to left hand turns from Parramatta Road; and
2. Consults with the residents of Walker, Alt and Bland Streets Haberfield and offers similar treatments or a no left turn from Parramatta Road during the morning peak.

Background

Council was briefed on a number of traffic changes on Parramatta Road on 2 June 2020 by Transport for NSW. The potential exposure of local residential streets was alarming. Hence, I am moving this motion to protect the amenity of these streets.

Officer's Comments:

Comment from Traffic and Transport Planning Manager:

Officers are preparing the Traffic Management Plan (TMP) for consultation with the community and then consideration by Traffic Committee and Transport for NSW.

ATTACHMENTS

1. [↓](#) C0819(2) Item 14 - Notice of Motion: Chandos Street
2. [↓](#) Minutes of C0819(2) Item 14 - Notice of Motion: Chandos Street

Council Meeting
27 August 2019

Item No: C0819(2) Item 14
Subject: NOTICE OF MOTION: CHANDOS STREET
From: The Mayor, Councillor Darcy Byrne

MOTION:

THAT:

1. Council review previous traffic counts in Chandos and neighbouring streets and request comparable data from RMS, obtained following the opening of Westconnex Stage 1, with a view to closing Chandos Street at the intersection of Parramatta Road; and
2. The matter be referred to Council for consideration.

Background

Council has received repeated representations from residents in Chandos Street, Haberfield and adjoining streets seeking to have the street closed at the intersection of Parramatta Road, in order to address ongoing safety issues for residents, children and parents at the nearby preschool as well as Haberfield Public School.

Earlier this year Council undertook traffic counts in Chandos Street and surrounding streets in order to establish a baseline of traffic movements, prior to the opening of Westconnex Stage One. With the M4 East Tunnel now open it is timely for Council to revisit the closure of the street.

ATTACHMENTS

Nil.

C0819(2) Item 14 Notice of Motion: Chandos Street

Motion: (Byrne/Passas)

THAT:

1. Council review previous traffic counts in Chandos Street and neighbouring streets and request comparable data from RMS, obtained following the opening of Westconnex Stage 1, with a view to closing Chandos Street at the intersection of Parramatta Road;
2. The matter be referred to Council for consideration; and
3. Staff investigate the option for allowing left turn only out of Chandos Street onto Parramatta Road, if Chandos Street is not closed.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Raciti, Stamolis, Steer and York

Against Motion: Nil

C0819(2) Item 15 Mayoral Minute: Inner West War on Waste

Motion: (Byrne)

THAT Council:

1. Commend staff for their work in bringing together such a high-quality forum;
2. Write to the Minister for Environment the Hon Matt Kean and the Minister for Planning and Public Spaces the Hon Rob Stokes to let them know of the success of the Inner West War on Food Waste forum, and to thank the Environmental Protection Agency and the Department of Planning and Environment for their involvement;
3. Collaborate with Randwick Council to coordinate a further meeting, to be hosted at Randwick, with the objective of beginning discussions with interested Councils regarding a group approach to planning and locating a food waste recovery plant and transfer stations for the use of metropolitan Councils; and
4. Write to the Clean Energy Finance Corporation to thank them for their presentation at the War on Food Waste forum and ask for their guidance in ongoing collaboration between metropolitan Sydney councils and the development of a proposal for a food waste processing plant.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Hesse, Iskandar, Kiat, Lockie, McKenna OAM, Raciti, Stamolis, Steer and York

Against Motion: Crs Macri and Passas

Item No: C0620(3) Item 13
Subject: NOTICE OF MOTION: BANNING THE SALE OF FUR AND EXOTIC ANIMAL SKINS ON COUNCIL PROPERTY
From: Councillor Pauline Lockie

MOTION:

THAT Council:

- 1. Reviews its event and market application forms and guidelines to prohibit the sale of fur products, mislabeled fake fur products, and other exotic animal skins on Council property;**
- 2. Writes to the Minister for Home Affairs to call for the introduction of random forensic testing of imported fake fur products, as well as an investigation into prohibition of fur product imports into Australia;**
- 3. Writes to the NSW Minister for Better Regulation and Innovation to request a fur task force be established to assess the size and impact of illegal fur labelling; and**
- 4. Promotes through its website and other suitable communications channels:**
 - a) Information to help local residents and businesses report the sale of suspected illegal animal products to the relevant authorities; and**
 - b) Ethical and sustainable alternatives to reselling or throwing out old or vintage fur products.**

Background

Numerous reports have highlighted the animal cruelty involved in fur production. Animals are being kept in small cages unable to act out their natural behaviours, after which they are killed in harrowing ways such as electrocution, bludgeoning, or being skinned alive.

Increasing awareness of this cruelty has reduced consumer demand for fur products. However, some producers and vendors are now mislabeling fur products sold in Australia.

Late last year, forensic tests on faux fur products sold at the Queen Victoria and South Melbourne markets revealed they were made from racoon and racoon dog fur – animals known to be mistreated in fur harvesting facilities in China.¹

Similarly, the trade in exotic animal skins – such as snakes, alligators, crocodiles and other reptiles – is marked by cruelty and significant environmental impacts, with wild animals removed from their native habitat and harvested for skins.

Over the last few weeks, the international trade in wildlife for fur, exotic animal skins and other products has been subject to renewed calls for bans due to the coronavirus pandemic, and the risk that this trade will lead to other deadly disease outbreaks in future.^{2,3}

¹ theage.com.au/national/victoria/real-fur-from-tortured-dogs-being-sold-as-fake-in-melbourne-s-markets-20191121-p53cw2.html

Stamping out the trade in fur and exotic animal skins requires action at a state and federal level, which is why I am asking Council to call on the NSW and Australian governments to do this.

Under the *Local Government Act 1993 (NSW)*, which allows a council to establish policies for the use of its land, Council can also act to prevent the sale of these products on our properties.

For example, markets operate under section 68 approvals that permit them to use Council land. It is possible under section 68 approvals to add a condition prohibiting the sale of fur and exotic animal skins in any markets operated on Council-owned land.

Additionally, an amendment to Council's General Conditions of Hire for Community Facilities and Town Halls that prevents the sale of such products in our venues could reduce markets for these cruel industries, particularly if combined with information to help local residents and business report suspect sales of illegal animal products to the relevant authorities.

The resale of second-hand or vintage fur products can also contribute to demand by perpetuating the idea of 'fur as fashion', but throwing these products out conflicts with the Inner West's vision of becoming a zero waste community.

Again, Council can act by helping raise awareness of alternatives such as donating to Snuggle Coats, a not-for-profit organisation that collects furs for animal groups, carers and wildlife parks across Australia, which in turn use the furs to rehabilitate and comfort animals in their care.⁴

Similar resolutions on this issue have recently been passed by the City of Sydney and Canterbury-Bankstown Council. Globally, local and city governments in the UK, USA and Brazil have enacted bans on the sale of animal fur.

Given our community's strong and demonstrable commitment to animal welfare, I believe Council should take this stand alongside these governments against this cruel and unethical trade, and work to ensure that its products are not sold on Council premises.

Officer's Comments:

Staff have no comment.

ATTACHMENTS

Nil.

² www.smh.com.au/world/asia/how-does-an-epidemic-spread-and-what-does-the-wildlife-trade-have-to-do-with-it-20200129-p53vvm.html

³ smh.com.au/world/asia/wildlife-markets-are-the-tip-of-the-iceberg-and-not-just-in-china-20200529-p54xks.html

⁴ snugglecoats.org/

Item No: C0620(3) Item 14
Subject: NOTICE OF MOTION: COUNCIL MEMBERSHIP OF COMMITTEES AND ORGANISATIONS AND RETENTION OF MEMBERSHIP OF THE SYDNEY COASTAL COUNCILS GROUP
From: Councillor Rochelle Porteous

MOTION:

THAT:

1. Any proposal to leave or to join an external Local, Regional or State-wide Committee or Organisation eg Local Government NSW, SSROC and SCCG must come to council for endorsement; and
2. The membership of Inner West Council in the Sydney Coastal Councils Group be retained and renewed for 2020/21 financial year.

Background

Inner West Council has been a member of the Sydney Coastal Councils Group (SCCG) since amalgamation and prior to that Leichhardt Council has been a long-term member. The membership of the SCCG has brought significant excellent networking, educational and sustainability benefits to both Councils. Two Councillors are delegate members of the SCCG and a staff member also attends meetings

The SCCG Councillor delegates have been informed that the SCCG has just received correspondence from the Inner West Council to say that the Inner West Council has decided to no longer be a member of SCCG and will not be renewing its membership. This decision was not communicated to the two Councillor delegate members of the Group by the CEO; it has not been discussed not consulted with Councillors and a proposal has not come to council to vote to cease membership of the SCCG. Decisions on the membership of the SCCG and other external local, regional and statewide Committees and Organisations are decisions which should be brought to a Council meeting for determination.

Officer's Comments:

Comment from Governance Manager:

Council's current financial position is in distress and this membership has been identified as not providing significant value to Council. The cost of this membership is \$40,300 per year. Since 2019, only one councillor has attended a group meeting held by the Sydney Coastal Councils Group. Council memberships are an operational matter and this motion will have an impact on budget savings achieved and meeting its obligations under "sustainable performance" in the organisation's performance agreement.

ATTACHMENTS

1. [↓](#) Renewal of SCCG Membership for 2020-21



9 June 2020

Ms Sarah Joyce
Executive Officer
Sydney Coastal Councils Group
Manly Town Hall, 1 Belgrave Street
MANLY NSW 2095

Dear Ms Joyce,

Re: Renewal of SCCG Membership for 2020/21

This letter is in response to your recent communication regarding the renewal of Inner West Council's membership to Sydney Coastal Council Group. Unfortunately, due mostly to some significant financial difficulties that Council has found itself in due to COVID 19, I regret to inform you that Inner West Council will not be renewing its membership for the coming year.

Council acknowledges the excellent work that your organisation does in the advocacy and advancement of coastal management issues and will continue to provide SCCG support where it can in terms of knowledge sharing and collaboration.

The Inner West will remain a member of the Parramatta River Catchment Group and through this group, Council will continue to participate in the development of the Sydney Harbour Coastal Management Program.

Yours sincerely

Michael Deegan
Chief Executive Officer

Inner West Council
innerwestnsw.gov.au
02 9392 5000

council@innerwestnsw.gov.au
PO Box 14, Petersham NSW 2049

Item No: C0620(3) Item 15
Subject: NOTICE OF MOTION: BUDGET 2020/21: FURTHER COUNCILLOR BRIEFING TO BE SCHEDULED
From: Councillor Rochelle Porteous

MOTION:

THAT:

1. A further Councillor briefing on the Revised Delivery Program 2018 – 2022; combined Draft Operational Plan 2020/21 and Budget 2020/21 and Draft Updated, Long Term Financial Plan 2020 – 2030. The briefing for Councillors to be organised as soon as possible and within the current consultation period.
2. This additional briefing should include:
 - a) A detailed breakdown of the way the revised delivery plan and combined draft operational plan 2020/21 will be delivered for each of the 6 key areas of council. The briefing to include any proposed changes from the 2019/20 delivery plan and operational plan. The key being:
 - Corporate
 - City Living
 - Infrastructure
 - Development and Recreation
 - Environment and Economic Development
 - Financial Management
 - b) A presentation on the Long-term Financial Plan for Council 2020 – 2030 as Councillors are yet to receive a presentation on this. This presentation should include how figures in the plan have been arrived at.
 - c) A detailed breakdown on the risk factors with this budget, particularly in terms of the impact of COVID-19 and parameters on best base, worst case scenarios as to the immediate, medium and long term predicted impacts on the IWC delivery plan, budget and long-term financial plan.
 - d) A detailed breakdown on how savings identified as having been achieved in the 2019/20 budget have been achieved and how these saving will impact delivery and the budget in 2020/21 and beyond.

Background

There have only been 2 Councillor briefings on the Inner West Council Budget this is not enough for a budget, delivery plan, operational plan and long term financial plan for a large amalgamated council like Inner West Council and many elements of the budget and plans are yet to be presented, consulted and discussed with Councillors it is therefore recommended that this be undertaken as soon as possible.

Officer's Comments:

Comment from Chief Financial Officer:

Council has been briefed and supplied information in relation to the Operating Plan, Delivery Program LTFP and budget on multiple occasions as follows:-

5 May 2020 Briefing & Presentation Pack covering –

- Budget Assumptions
- COVID-19 Impact
- Income & Expenditure
- Problem Statement for Long Term Financial Plan
- Assets – capital works
- Budget by Directorate – presentation pack shared on 6 May 2020 as requested

2 June 2020 Briefing & Presentation Pack covering –

- Major movements in the budget
- Operating Result After Operating Grants
 - Consolidated Result
 - Excluding Resource Recovery
 - Directorate by Business Unit
- Fees & Charges

3 June 2020 Presentation Pack provided covering –

- Council's Reserves – 10 Years
- Problem Statement for Long Term Financial Plan
- Long Term Options/Decisions

ATTACHMENTS

Nil.

Item No: C0620(3) Item 16
Subject: QUESTION ON NOTICE: THE USE OF GLYPHOSATE BY INNER WEST COUNCIL
From: Councillor Rochelle Porteous

Comment by the Chief Executive Officer:

Answers to all questions will be provided at an Ordinary Council meeting in August 2020.

Question

1. In what form are records kept on the use of glyphosate to control weeds on IWC lands?

Question

2. Who is responsible for checking these records and how often are they checked?

Question

3. What oversight occurs to ensure the accuracy of these records?

Question

4. What is the procedure where a breach of relevant policies occurs?

Question

5. From the records kept by IWC, how often has glyphosate been used on IWC lands in the last 6 months?

Question

6. Please provide details of each use of glyphosate for December and January by IWC.

Question

7. The IWC Pesticide Notification Plan only requires one of the following notification methods to be used to notify the use of glyphosate:
 - *Signs*
 - *Notice within a local community newspaper*
 - *Letters*
 - *Phone contact and/or Fax/email*
 - *Letterbox drops and/or door knocking*

- *Inner West Council's web page*

As part of the record keeping procedures, are records kept on the notification methods used for each use of glyphosate?

Question

8. According to the IWC Pesticide Notification Plan council staff are not required to inform the public that they are spraying glyphosate locally if the application is *Spraying of glyphosate using a hand spray bottle, wand, or spray lance*

As part of the record keeping procedures, are records kept where glyphosate has been used and the public has not been informed?

Question

9. Feb 26 2019 Council adopted as part of the adoption of the Weed Management Policy to go out on exhibition the following:

Council engage a consultant to review existing herbicide use and make recommendations on improved risk mitigation as outlined in the report

- a) Has Council engaged a consultant to do this work? If not why not?

Question

- b) Assuming council has engaged this consultant, what recommendations has the consultant brought to council to improve risk mitigation?

Question

10. May 28 2019 Council as part of the adoption of the Weed Management Policy, the following was adopted:

Only use glyphosate as a matter of last resort where other methods cannot be applied and spot control of persistent weeds that resist other treatments occur.

- a) What decision-making process do council staff undertake to ensure Glyphosate is only used as a last resort?

Question

- b) Where is it clearly outlined in the current policies that glyphosate must only be used as a last resort?

Question

11. May 28 2019 also adopted was the following:

Any use of glyphosate must be done in a way that avoids it running off into stormwater drains and our waterways.

- a) What steps are council staff taking to ensure that when glyphosate is used, it is not running off into stormwater, drains and our waterways?

Question

- b) Where is this wording for this found in the current policies?

Question

- c) Have there been any breaches regarding this directive from council in the last 6 months?

Question

12. In Leichhardt Council most weed control was undertaken by non-chemical means with use of steam weeding, snipping the weeds and hand weeding. Glyphosate was only used for spot control of weeds where all other methods were not effective. It was reported at the February 2019 council meeting that the Leichhardt Council weed management contract would end in September 2019.

Question

- a) Has the Leichhardt Council contract with most of the weed control being undertaken by non-chemical means been renewed with the same frequency of non-chemical weed removal and assurances regarding glyphosate only being used as a last resort?

Question

- b) Has the use of glyphosate increased in the Leichhardt Council area since September 2019? If it has please provide details.

Question

- c) Has the use of glyphosate increased in the Inner West Council area over the last 12 months? If it has please provide details.

Question

13. The General Secretary of the United Services Union, the industrial body representing Council's staff, wrote to Councillors in May last year to notify Council that the USU has recently engaged with Safework NSW to further

discuss the potential risks of Glyphosate to their workers. What work has the CEO done to follow up with the USU on this matter and to implement any worker safety recommendations?

ATTACHMENTS

Nil.

Item No: C0620(3) Item 17

Subject: 1-13 PARRAMATTA ROAD, ANNANDALE - VOLUNTARY PLANNING AGREEMENT

Prepared By: Bojan Sodic - Strategic Investments Manager

Authorised By: Elizabeth Richardson - Chief Operating Officer, Director Development & Recreation

RECOMMENDATION

THAT Council:

1. Endorse the recommendations in Confidential Attachment 1; and
2. Place the Voluntary Planning Agreement on public exhibition for a minimum of 28 days and receive a further report after the exhibition period.

DISCUSSION

The site is located at 1-13 Parramatta Road, Annandale. The total site area is approximately 1,765 square metres. The site is located within a predominantly residential area, characterised by one and two storey developments. The Development Application involves a mixed use development comprising of two shops and 42 residential units.

The Development Application (D/2017/161) was approved through Land and Environment Court. More recent history is:

- S4.55 modification application lodged in 4th April 2019
- S4.55 modification application class 1 appeal deemed refusal lodged in 14th November 2019
- Conciliation conference held 30th January 2020. Conference adjourned several times as they parties worked collaboratively in attempt to resolve the matter by agreement.
 - The parties have reached a point where the design of the proposed modified development has essentially been resolved.
 - However, any agreement between the parties to resolve the proceedings will involve a voluntary planning agreement (“VPA”), relating to the embellishment and dedication of land for road widening and a through site link for improved pedestrian and cyclist access and amenity along Johnston’s Creek. Council requires a VPA to be entered into prior to any agreement to resolve the proceedings (the Applicant had proposed this be a condition of consent as to not delay the parties from entering into a s34 agreement).
 - S34 Conference was terminated on 26 May 2020 and the matter has been listed for directions on 25 June 2020.

An internal assessment of the VPA was undertaken and involved several key internal stakeholders. The internal consultation identified a strategic need for the items shown in the offer to Council. Details of the offer and the VPA Agreement are provided in the Confidential Attachment. The VPA will be placed on Public Exhibition for 28 days and reported back to Council for endorsement.

ATTACHMENTS

1. 1 - 13 Parramata Road, Annandale - VPA details - *Confidential*