



Finance, Community & Services Committee

Monday 4 March 2024
6.30pm

Agenda

Finance, Community & Services Committee (FC&S)

Woollahra Council will be holding Committee meetings (i.e. Environmental Planning (EP), Finance, Community & Services (FC&S) and Strategic & Corporate (S&C) with The Mayor, Councillors and staff will be participating in person. Members of the public are invited to attend the Committee meeting in person or watch and/or listen to meetings live (via Council's website).

A copy of the Agenda is available on Council's website:

https://www.woollahra.nsw.gov.au/council/meetings_and_committees/committees/finance_community_and_services_committee_fcs/fc_and_s_agendas_and_minutes

To register to address the Committee, please email your name, phone number and Item number to records@woollahra.nsw.gov.au by **10.00am on the day of the meeting**, indicating if you will be attending in person or wish to address the meeting via teleconferencing technology. Please note, instructions on how to join the meeting will be forwarded to person who have pre-registered to make a submission/address the Committee, via email on the day of the meeting via email.

Late correspondence may be submitted for consideration by the Committee. All late correspondence must be received by **10.00am on the day of the meeting**. Late correspondence is to be emailed to records@woollahra.nsw.gov.au.

Minutes of the Finance, Community & Services Committee (FC&S) will be posted to Council's website once finalised.

If you are experiencing any issues please call Council's Governance department on (02) 9391 7001.

The audio recording and late correspondence consider at the meeting will be uploaded to Council's website by 5.00pm on the next business day.

Outline of Meeting Protocol & Procedure:

- The Chairperson will call the Meeting to order and ask the Committee Members and/or Staff to present apologies and/or late correspondence.
- The Chairperson will commence the Order of Business as shown in the Index to the Agenda.
- At the beginning of each item the Chairperson will invite member(s) of the public who registered to speak to address the Committee.
- Members of the public who have registered to address the Committee, will be allowed four (4) minutes in which to address the Committee. One (1) warning bell will be rung at the conclusion of three (3) minutes and two (2) warning bells rung at the conclusion of four (4) minutes. Please direct comments to the issues at hand.
- If there are persons representing both sides of a matter (e.g. applicant/objector), the person(s) against the recommendation speak first.
- At the conclusion of the allocated four (4) minutes, the speaker will take no further part in the debate unless specifically called to do so by the Chairperson.
- If there is more than one (1) person wishing to address the Committee from the same side of the debate, the Chairperson will request that where possible a spokesperson be nominated to represent the parties.
- After considering any submissions the Committee will debate the matter (if necessary), and arrive at a recommendation
- (R items which proceed to Full Council) or a resolution (D items for which the Committee has delegated authority).

Disclaimer:

Councillors, staff and members of the public are advised that meeting are being lived streamed, accessible via a link from Council's website.

By speaking at a Committee Meeting members of the public consent to their voice, image and personal information (including name and address) being recorded and publicly available on Council's website. Accordingly, please ensure your address to Council is respectful and that you use appropriate language and refrain from making any defamatory statements or discriminatory comments.

Woollahra Council **does not** accept any liability for statements, comments or actions taken by individuals during a Committee meeting. Any part of the meeting that is held in closed session will not be recorded.

People connecting to this meeting by conferencing technology are reminded that under the *Local Government Act 1993*, the recording of meetings by a member of the public using any electronic recording device including a mobile phone or video camera is not permitted. Any person found recording without the permission of Council may be expelled from the meeting.

The audio recording of each meeting will be retained on Council's website for a minimum period of 6 months. After that period has passed, recordings of meetings may be disposed of in accordance with the *State Records Act 1998*.

For further information please visit www.woollahra.nsw.gov.au

Recommendation **only** to the Full Council ("R" Items):

- Such matters as are specified in Section 377 of the Local Government Act and within the ambit of the Committee considerations.
- The voting of money for expenditure on works, services and operations.
- Rates, Fees and Charges.
- Donations.
- Grants Program.
- Asset Rationalisation.
- Corporate Operations:
 - Statutory Reporting;
 - Adoption of Council's Community Strategic Plan, Delivery Program and Operational Plan;
 - Delegations; and
 - Policies.
- Voluntary Planning Agreements (VPAs).
- Leases required to be determined by Full Council by specific legislative requirements.
- Matters which involve broad strategic or policy initiatives within responsibilities of Committee.
- Matters delegated to the Council by the Roads and Maritime Services.
- Residential Parking Schemes - Provision and Policies.
- Matters requiring the expenditure of moneys and in respect of which no Council vote has been made.
- Matters **not** within the specified functions of the Committee,
- Matters reserved by individual Councillors in accordance with any Council policy on "safeguards" and substantive change.

Delegated Authority to be determined at Committee level ("D" Items):

- General financial and corporate management of the Council, except those specifically excluded by statute, by Council direction or delegated specifically to another Committee.
Note: This is not to limit the discretions of nominated staff members exercising Delegated Authorities granted by the Council.
- Statutory reviews of Council's Delivery Program and Operational Plan.
- Finance Regulations, including:
 - Authorisation of expenditures within budgetary provisions where not delegated;
 - Quarterly review of Budget Review Statements;
 - Quarterly and other reports on Works and Services provision; and
 - Writing off of rates, fees and charges because of non-rateability, bad debts, and impracticality of collection.
- Auditing.
- Property Management.
- Asset Management.
- Works and Services - Monitoring and Implementations.
- Legal Matters and Legal Register.
- Parks and Reserves Management.
- Infrastructure Management, Design and Investigation.
- Community Services and Programs.
- Cultural Programs.
- Library Services.
- Health.
- Licensing.
- Liquor Licences.
- Regulatory.
- Fire Protection Orders.
- Residential Parking Schemes (surveillance and administration).
- Traffic Management (Traffic Committee Recommendations).
- Waste Minimisation.
- To require such investigations, reports or actions as considered necessary in respect of matters contained within the Business Agendas (and as may be limited by specific Council resolution).
- Confirmation of the Minutes of its Meetings.
- Statutory reviews of Council's Delivery Program and Operational Plan.
- Any other matter falling within the responsibility of the Finance, Community & Services Committee and not restricted by the Local Government Act or required to be a Recommendation to Full Council as listed above.
- Matters reserved by individual Councillors in accordance with any Council policy on "safeguards" and substantive change.

Finance, Community & Services Committee Membership:
Quorum: The quorum for Committee meeting is 4 Councillors

7 Councillors

Woollahra Municipal Council

Notice of Meeting

29 February 2024

To: His Worship the Mayor, Councillor Richard Shields ex-officio
Councillors Toni Zeltzer (Chair)
Mary-Lou Jarvis (Deputy Chair)
Peter Cavanagh
Luise Elsing
Nicola Grieve
Harriet Price
Mark Silcocks

Dear Councillors,

Finance, Community & Services Committee – 4 March 2024

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Finance, Community & Services Committee** meeting to be held in the **Council Chambers, 536 New South Head Road, Double Bay, on Monday 4 March 2024 at 6.30pm.**

Members of the Public may:

- Register to address the meeting (via Zoom or in Person) by completing the relevant form available on Council's website:
https://www.woollahra.nsw.gov.au/council/meetings_and_committees/having_your_say_at_meetings and email the completed form to records@woollahra.nsw.gov.au **by 10.00am on the day of the meeting.**
- Submit late correspondence for consideration by Councillors by emailing records@woollahra.nsw.gov.au **by 10.00am on the day of the meeting.**

Watch and listen to the meeting live via Council's website:

https://www.woollahra.nsw.gov.au/council/meetings_and_committees/committees/finance_community_and_services_committee_fcs/fc_and_s_agendas_and_minutes

An audio recording of the meeting will be uploaded to Council's website following the meeting by 5.00pm on the next business day.

If you have any difficulties accessing the meeting please contact (02) 9391 7001.

Regards

Craig Swift-McNair
General Manager

Finance, Community & Services Committee

Agenda

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3	Leave of Absence and Apologies	
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Item No:	D1 Delegated to Committee
Subject:	CONFIRMATION OF MINUTES OF MEETING HELD ON 5 FEBRUARY 2024
Author:	Sue O'Connor, Governance Officer
File No:	24/24939
Purpose of the Report:	The Minutes of the Finance, Community & Services Committee of 5 February 2024 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.
Alignment to Delivery Program:	Strategy 11.3: Ensure effective and efficient governance and risk management.

Recommendation:

THAT the Minutes of the Finance, Community & Services Committee Meeting of 5 February 2024 be taken as read and confirmed.

Executive Summary:

This report presents the Finance, Community & Services Committee Meeting of 5 February 2024 for confirmation.

Discussion:

The Finance, Community & Services Committee Meeting Minutes are presented to the Committee as a procedural matter. Any matter arising from the Minutes can be discussed. A copy of the Minutes are provided as **Attachment 1**.

Options:

Submission of minutes to the Finance, Community & Services Committee Meeting is a procedural matter for the adoption of the minutes.

Community Engagement and / or Internal Consultation:

No internal or external consultation has taken place in the preparation of this report.

Policy Implications:

There are no direct policy implications as a result of this report.

Financial Implications:

There are no direct financial implications as a result of this report.

Resourcing Implications:

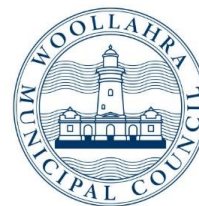
There are no direct resourcing implications as a result of this report.

Conclusion:

The minutes are presented for confirmation by the Finance, Community & Services Committee Meeting.

Attachments

1. Unconfirmed FC&S Minutes held on 5 February 2024 [!\[\]\(ea8fbe6f010f6daa44b5d04d0a9bccd1_img.jpg\)](#) 



Finance, Community & Services Committee

Monday 5 February 2024
6.30pm

Minutes

Unconfirmed

Finance, Community & Service Committee Minutes

Monday 5 February 2024

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Finance, Community & Services Committee

Minutes of the Meeting held on Monday 5 February 2024 at 6.30pm.

Present: His Worship the Mayor, Councillor Richard Shields ex-officio
Councillors: Toni Zeltzer (Chair)
Mary-Lou Jarvis
Peter Cavanagh (via Zoom)
Luise Elsing (via Zoom)
Nicola Grieve
Harriet Price
Mark Silcocks

Staff	Emilio Andari	(Manager – Engineering Services)
	Anthony Crimmings	(Manger – Customer Experience)
	Petrina Duffy	(Coordinator – Strategy & Performance)
	Roger Faulkner	(Team Leader -Open Space & Recreation Planning)
	Maya Jankovic	(Coordinator – Community & Culture)
	Richard Ladlow	(Manager – Capital Projects)
	Zubin Marolia	(Manager – Property & Projects)
	Alison McNamee	(Meetings Officer)
	Sue Meekin	(Director – Corporate Performance)
	Vicki Munro	(Manager – Community & Culture)
	Patricia Occelli	(Director – Community & Customer Experience)
	Tom O'Hanlon	(Director – Infrastructure & Sustainability)
	Helen Tola	(Manager – Governance & Risk)

Also in Attendance: Councillor Shapiro (Item D3 & Item D6)

Note: Item D6 (Confirmation of Minutes of the Woollahra Small Sculpture Prize Committee Meeting held on 8 August 2023) was considered after Item D3 (Confirmation of Minutes of Arts and Culture Advisory Committee Meeting held on 21 November 2023).

1. Opening

The Chair declared the Finance, Community & Services Committee of 5 February 2024 open and welcomed Councillors, staff and members of the public who are watching and listening to this evenings meeting.

2. Acknowledgement of Country (Gadigal People and Birrabirragal People)

The Chair read the following Acknowledgement of Country:

I would like to acknowledge that we are here today on the land of the Gadigal and Birrabirragal people, the traditional custodians of the land. On behalf of Woollahra Council, I acknowledge Aboriginal or Torres Strait Islander people attending today and I pay my respects to Elders past, present and emerging.

3. Acknowledgement of the Sovereign of the Day (King Charles III)

The Chair read the following Acknowledgement of the Sovereign of the Day (King Charles III):

I also acknowledge King of Australia King Charles III.

4. Apologies and Applications for a Leave of Absence or Attendance by Audio-Visual Link by Councillors

General Item No: 4.1 Audio-Visual Link

(Grieve/Jarvis)

Resolved:

THAT in accordance with clause 5.23 of Council's Code of Meeting Practice, Council approves the following Councillors participation in the Finance, Community & Services Committee of 5 February 2024 via Audio-Visual Link:

- Councillor Cavanagh
- Councillor Elsing.

Note: *In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.*

For the Motion

Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Shields
Councillor Silcocks
Councillor Zeltzer

8/0

Against the Motion

Nil

5. Late Correspondence

Late correspondence was submitted to the committee in relation to Item R3.

6. Disclosures of Interest

Councillor Grieve declared a Non-Significant, Non-Pecuniary Interest in Item R5 (Capital Works Program – Quarterly Progress Report December 2023) due to her long participation in the Bush Regeneration Program and a member of the Rose Bay Community Garden. Councillor Grieve remained in the meeting, participated in debate and voted on the matter.

Unconfirmed

Woollahra Municipal Council
Finance, Community & Services Committee Minutes

5 February 2024

Items to be Decided by this Committee using its Delegated Authority

Item No: D1 Delegated to Committee
Subject: **CONFIRMATION OF MINUTES OF MEETING HELD ON 4 DECEMBER 2023**
Author: Sue O'Connor, Governance Officer
File No: 23/224500
Purpose of the Report: The Minutes of the Finance, Community & Services Committee of 4 December 2023 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.
Alignment to Delivery Program: Strategy 11.3: Ensure effective and efficient governance and risk management.

(Silcocks/Jarvis)

Resolved:

THAT the Minutes of the Finance, Community & Services Committee Meeting of 4 December 2023 be taken as read and confirmed.

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Shields
Councillor Silcocks
Councillor Zeltzer

Against the Motion

Nil

8/0

Item No: D2 Delegated to Committee
Subject: **WOOLLAHRA LOCAL TRAFFIC COMMITTEE MINUTES - 5 DECEMBER 2023**
Author: Emilio Andari, Manager Engineering Services
Approver: Tom O'Hanlon, Director Infrastructure & Sustainability
File No: 24/14532
Purpose of the Report: For the Committee to consider the recommendations of the Woollahra Local Traffic Committee.
Alignment to Delivery Program: Strategy 11.3: Ensure effective and efficient governance and risk management.

(Silcocks/Grieve)

Resolved:

THAT the Recommendations Y1-Y4 contained in the minutes of the Woollahra Local Traffic Committee held on Tuesday 5 December 2023 be adopted.

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Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Against the Motion

Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Shields
Councillor Silcocks
Councillor Zeltzer

Nil

8/0

Item No: Y1
Subject: **DARLING POINT ROAD, DARLING POINT - REMOVAL OF REDUNDANT BUS STOP**
Author: Ever Fang, Traffic & Transport Engineer
Approver: Emilio Andari, Manager Engineering Services
File No: 23/218760
Purpose of the Report: To seek approval to adjust parking restrictions adjacent to a redundant bus stop.
Alignment to Delivery Program: Strategy 6.2: Management of public parking on-street and off-street.

(Silcocks/Grieve)

Resolved:

THAT:

- A. The existing bus stop (J-stem) on the western side of Darling Point Road, near property No.56 Darling Point Road, Darling Point, be removed; and
- B. The existing 'No Stopping' restrictions at this location, be reduced to a 10 metre distance on approach to the existing pedestrian refuge islands, as shown in Attachment 1, and as per the TfNSW Technical Directions TDT 2011/01a, in order to improve car parking opportunities in this area.

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Against the Motion

Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Shields
Councillor Silcocks
Councillor Zeltzer

Nil

8/0

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Item No: Y2
Subject: **VICTORIA ROAD, BELLEVUE HILL - BICYCLE ROUTE SAFETY TREATMENTS AT MARCH STREET**
Author: Ever Fang, Traffic & Transport Engineer
Approver: Emilio Andari, Manager Engineering Services
File No: 23/219341
Purpose of the Report: To improve traffic conditions and cyclist safety.
Alignment to Delivery Program: Strategy 6.1: Facilitate an improved network of accessible and safe active transport options.

(Grieve/Silcocks)

Resolved:

THAT the design plan for the proposed bicycle route safety treatments including installation of a median island and realignment of the existing bicycle lane in Victoria Road, Bellevue Hill, at March Street (as per attached Attachment 1 – Design Plan) be approved.

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Shields
Councillor Silcocks
Councillor Zeltzer

Against the Motion

Nil

8/0

Item No: Y3
Subject: **VICTORIA ROAD, BELLEVUE HILL - BICYCLE ROUTE SAFETY TREATMENTS AT FOSTER AVENUE**
Author: Ever Fang, Traffic & Transport Engineer
Approver: Emilio Andari, Manager Engineering Services
File No: 23/219357
Purpose of the Report: To improve traffic conditions and cyclist safety.
Alignment to Delivery Program: Strategy 6.1: Facilitate an improved network of accessible and safe active transport options.

(Grieve/Silcocks)

Resolved:

THAT the design plan for the proposed bicycle route safety treatments including installation of a median island and realignment of the existing bicycle lane in Victoria Road, Bellevue Hill, at Foster Avenue (as per attached Attachment 1 – Design Plan) be approved.

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Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Against the Motion

Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Shields
Councillor Silcocks
Councillor Zeltzer

Nil

8/0

Item No: Y4
Subject: **FLETCHER STREET, WOOLLAHRA - MOBILITY PARKING SPACE**
Author: Frank Rotta, Traffic & Transport Engineer
Approvers: Ever Fang, Traffic & Transport Engineer
Emilio Andari, Manager Engineering Services
File No: 23/219951
Purpose of the Report: To create reasonable access for a Mobility Permit holder to their residence
Alignment to Delivery Program: Strategy 6.2: Management of public parking on-street and off-street.

(Jarvis/Price)

Resolved:

THAT:

- A. A 'Mobility Parking' space be installed on the northern side of Fletcher Street, Woollahra, from 5.4 metres east of the existing driveway to property No.3 Fletcher Street for a distance of 6 metres in an easterly direction, as shown in Attachment 1.
- B. The applicant be advised of Council's Procedure and Conditions for Mobility Parking Zones, including the requirement to renew these zones annually.

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Against the Motion

Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Shields
Councillor Silcocks
Councillor Zeltzer

Nil

8/0

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Item No: D3 Delegated to Committee
Subject: **CONFIRMATION OF MINUTES OF ARTS AND CULTURE ADVISORY COMMITTEE MEETING HELD ON 21 NOVEMBER 2023**
Author: Maya Jankovic, Coordinator Community & Culture
File No: 24/1660
Purpose of the Report: The Minutes of the Arts and Culture Advisory Committee of 21 November 2023 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.
Alignment to Delivery Program: Strategy 11.3: Ensure effective and efficient governance and risk management.

Note: Councillor Shapiro attended the meeting at 6.40pm to speak to Item D3 (Confirmation of Minutes of Arts and Culture Advisory Committee Meeting Held on 21 November 2023).

Note: Councillor Shapiro left the meeting at 6.53pm.

(Jarvis/Grieve)

Resolved:

THAT the Minutes of the Arts and Culture Advisory Committee Meeting held on 21 November 2023 be taken as read and confirmed.

Note: *In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.*

For the Motion

Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Shields
Councillor Silcocks
Councillor Zeltzer

Against the Motion

Nil

8/0

(Grieve/Price)

Resolved:

THAT Standing Orders be suspended to allow Item D6 (Confirmation of the Minutes of the Woollahra Small Sculpture Prize Committee Meeting Held on 8 August 2023) to be considered prior to Item D4 (Confirmation of Minutes of the Inclusion (Disability, Aged & Carers) Advisory Committee Meeting held 27 November 2023).

Adopted

Woollahra Municipal Council
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Item No: D4 Delegated to Committee
Subject: **CONFIRMATION OF MINUTES OF THE INCLUSION (DISABILITY, AGED & CARERS) ADVISORY COMMITTEE MEETING HELD 27 NOVEMBER 2023**
Author: Grant Cummins, Development Officer, Community & Culture
File No: 24/12275
Purpose of the Report: The Minutes of the Inclusion (Disability, Aged & Carers) Advisory Committee of 27 November 2023 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.
Alignment to Delivery Program: Strategy 11.3: Ensure effective and efficient governance and risk management.

Note: Councillor Shields left the meeting, the time being 6.53pm.

Note: Councillor Shields returned to the meeting, the time being 6.54pm.

(Jarvis/Silcocks)

Resolved:

THAT the Minutes of the Inclusion (Disability, Aged & Carers) Advisory Committee Meeting held on 27 November 2023 be taken as read and confirmed.

Note: *In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.*

For the Motion

Against the Motion

Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Shields
Councillor Silcocks
Councillor Zeltzer

Nil

8/0

Item No: D5 Delegated to Committee
Subject: **CONFIRMATION OF MINUTES OF THE PUBLIC ART PANEL MEETING HELD ON 22 JANUARY 2024**
Author: Maria Lacey, Public Art Coordinator
Approvers: Vicki Munro, Manager Community & Culture
Patricia Occelli, Director Community & Customer Experience
File No: 24/13456
Purpose of the Report: The Minutes of the Public Art Panel of 22 January 2024 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and noted.
Alignment to Delivery Program: Strategy 3.1: Promote opportunities for innovative, creative and cultural initiatives that support the community.

Woollahra Municipal Council
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(Grieve/Price)

Resolved:

THAT the Minutes of the Public Art Panel Meeting of 22 January 2024 be taken as read and confirmed.

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Against the Motion

Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Shields
Councillor Silcocks
Councillor Zeltzer

Nil

8/0

Item No: D6 Delegated to Committee
Subject: **CONFIRMATION OF MINUTES OF THE WOOLLAHRA SMALL SCULPTURE PRIZE COMMITTEE MEETING HELD ON 8 AUGUST 2023**
Author: Pippa Mott, Director Woollahra Gallery at Redleaf, Community & Culture
File No: 24/13799
Purpose of the Report: The Minutes of the Woollahra Small Sculpture Prize Committee of 8 August 2023 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.
Alignment to Delivery Program: Strategy 3.1: Promote opportunities for innovative, creative and cultural initiatives that support the community.

(Price/Silcocks)

Resolved:

THAT the Minutes of the Woollahra Small Sculpture Prize Committee Meeting of 8 August 2023 be taken as read and confirmed.

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Against the Motion

Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Shields
Councillor Silcocks
Councillor Zeltzer

Nil

8/0

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5 February 2024

**Items to be Submitted to the Council for Decision with
Recommendations from this Committee**

Item No: R1 Recommendation to Council
Subject: **WOOLLAHRA GRANTS PROGRAM 2024/25 ROUND**
Author: Emma Rodgers-Wilson, Development Officer, Community & Culture
Approvers: Maya Jankovic, Coordinator Community & Culture
Vicki Munro, Manager Community & Culture
Patricia Occelli, Director Community & Customer Experience
File No: 23/227735
Purpose of the Report: To endorse the Community and Cultural and Placemaking grant stream themes, to note the proposed dates for the 2024/25 Grants round and to provide feedback on School Citizenship Award program for 2023.
Alignment to Delivery Program: Strategy 2.1: Build strong and respectful connections with partners so that we can enhance and protect our local area and quality of life.

(Jarvis/Price)

Recommendation:

THAT Council:

- A. Endorse the themes relating to the 2024/25 Grants round for the Community and Cultural and Placemaking grant streams.
- B. Notes the proposed dates for the implementation of the 2024/25 Grants program.
- C. Notes the update on the School Citizenship Award Program for 2023.

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Shields
Councillor Silcocks
Councillor Zeltzer

Against the Motion

Nil

8/0

Item No: R2 Recommendation to Council
Subject: **MONTHLY FINANCIAL REPORT - 30 NOVEMBER 2023**
Author: Abdullah Rayhan, Team Leader Financial Services
Approvers: Paul Ryan, Chief Financial Officer
Sue Meekin, Director Corporate Performance
File No: 23/233773
Purpose of the Report: To present the monthly financial report for November 2023.
Alignment to Delivery Program: Strategy 11.2: Secure Council's financial position.

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Woollahra Municipal Council
Finance, Community & Services Committee Minutes

5 February 2024

(Silcocks/Shields)

Recommendation:

THAT Council:

- A. Receive and note the Monthly Financial Report – November 2023.
- B. Note that the Council's 12-month weighted average return for November 2023 on its direct investment portfolio of 4.80% (LM: 4.79%, LY: 2.92%) exceeds the benchmark 90-day AusBond Bank Bill Index of 4.18%.
- C. Note that the interest revenue for the year to date November 2023 is \$2.12M, exceeding our revised year to date budget of \$1.06M for the same period.

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Against the Motion

Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Shields
Councillor Silcocks
Councillor Zeltzer

Nil

8/0

Item No: R3 Recommendation to Council
Subject: **MONTHLY FINANCIAL REPORT - 31 DECEMBER 2023
INVESTMENT HELD AS AT 31 JANUARY 2024**
Author: Abdullah Rayhan, Team Leader Financial Services
Approvers: Paul Ryan, Chief Financial Officer
Sue Meekin, Director Corporate Performance
File No: 24/9285
Purpose of the Report: To present the monthly financial report for December 2023 and to present a list of investments held as of 31 January 2024.
Alignment to Delivery Program: Strategy 11.2: Secure Council's financial position.

Note: Late correspondence was tabled by Paul Ryan, Council's Chief Financial Officer.

(Grieve/Silcocks)

Recommendation:

THAT Council:

- A. Receive and note the Monthly Financial Report – December 2023.
- B. Note that the Council's 12-month weighted average return for December 2023 on its direct investment portfolio of 4.98% (LM: 4.80%, LY: 3.29%) exceeds the benchmark 90-day AusBond Bank Bill Index of 4.26%.

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5 February 2024

- C. Note that the interest revenue for the year to date December 2023 is \$2.57M, exceeding our revised year to date budget of \$1.36M for the same period.
- D. Receive and note the list of Council's investments held as of 31 January 2024 (provided as late correspondence).

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Against the Motion

Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Shields
Councillor Silcocks
Councillor Zeltzer

Nil

8/0

Item No: R4 Recommendation to Council
Subject: 2023/24 BUDGET REVIEW FOR THE QUARTER ENDED 31 DECEMBER 2023
Authors: Henrietta McGilvray, Senior Corporate Accountant
Esther Hii, Senior Corporate Accountant
Paul Ryan, Chief Financial Officer
Approvers: Sue Meekin, Director Corporate Performance
Craig Swift-McNair, General Manager
File No: 24/3565
Purpose of the Report: Alignment to Delivery Program: To report on the review of the 2023/24 budget forecast position as at the quarter ended 31 December 2023
Strategy 11.2: Secure Council's financial position.

(Shields/Silcocks)

Recommendation:

THAT Council:

- A. Receive and note the report on the Budget Review for the quarter ended 31 December 2023.
- B. Note the statement from the Responsible Accounting Officer, Council's Chief Financial Officer that the projected financial position at 31 December 2023, based on the forecasts outlined in this report, will remain satisfactory.
- C. Adopt the recommended variations to the 2023/24 budget as outlined in this report titled 2023/2024 Budget Review for the Quarter Ended 31 December 2023, resulting in a net operating result before capital grants and contributions of \$4.470 million, a decrease of \$0.485 million from the Quarter Ended 30 September 2023 revised budget. The original approved 2023/24 budget after revotes for Net Operating Result before Capital Grants & Contributions was \$1.079m.

Woollahra Municipal Council
Finance, Community & Services Committee Minutes

5 February 2024

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Shields
Councillor Silcocks
Councillor Zeltzer

8/0

Against the Motion

Nil

Item No: R5 Recommendation to Council
Subject: **CAPITAL WORKS PROGRAM - QUARTERLY PROGRESS REPORT
DECEMBER 2023**
Authors: Petrina Duffy, Coordinator Strategy & Performance
Henrietta McGilvray, Senior Corporate Accountant
Approvers: Tom O'Hanlon, Director Infrastructure & Sustainability
Sue Meekin, Director Corporate Performance
File No: 24/13265
Purpose of the Report: To provide the Committee with an update on the status of the projects in the FY2023-24 Capital Works Program, for the quarter ended 31 December 2023
Alignment to Delivery Program: Strategy 11.2: Secure Council's financial position.

Note: Councillor Grieve declared a Non-Significant, Non-Pecuniary Interest in this Item due to her long participation in the Bush Regeneration Program and a member of the Rose Bay Community Garden. Councillor Grieve remained in the meeting, participated in debate and voted on the matter.

Note: Councillor Elsing left the meeting, the time being 7.17pm.

Note: Councillor Elsing returned to the meeting, the time being 7.22pm.

(Price/Silcocks)

Recommendation:

THAT the Capital Works Program – Quarterly Progress Report for the quarter ended 31 December 2023 be received and noted.

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Shields
Councillor Silcocks
Councillor Zeltzer

8/0

Against the Motion

Nil

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Woollahra Municipal Council
Finance, Community & Services Committee Minutes

5 February 2024

Item No: R6 Recommendation to Council
Subject: **DELIVERY PROGRAM 2022/23 - 2025/26 & OPERATIONAL PLAN 2023/24 PROGRESS REPORT - DECEMBER 2023**
Author: Petrina Duffy, Coordinator Strategy & Performance
Approvers: Sue Meekin, Director Corporate Performance
Tom O'Hanlon, Director Infrastructure & Sustainability
Scott Pedder, Director Planning & Place
Patricia Occelli, Director Community & Customer Experience
File No: 24/13266
Purpose of the Report: To review the status of the Priorities and Actions in Council's Delivery Program 2022/23 – 2025/26 and Operational Plan 2023/24 for the six months ending 31 December 2023.
Alignment to Delivery Program: Strategy 11.1: Build an efficient organisation that places customers and the community at the heart of service delivery.

(Shields/Grieve)

Recommendation:

THAT the December 2023 Progress Report on Council's Delivery Program 2022/23 to 2025/26 and Operational Plan 2023/24 be received and noted.

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Councillor Cavanagh
Councillor Elsing
Councillor Grieve
Councillor Jarvis
Councillor Price
Councillor Shields
Councillor Silcocks
Councillor Zeltzer

8/0

Against the Motion

Nil

There being no further business the meeting concluded at 8.20pm.

We certify that the pages numbered 8 to 23 inclusive are the Minutes of the Finance, Community & Services Committee Meeting held on 5 February 2024 and confirmed by the Finance, Community & Services Committee on 4 March 2024 as correct.

Chairperson

Secretary of Committee

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Item No: D2 Delegated to Committee
Subject: **WOOLLAHRA LOCAL TRAFFIC COMMITTEE MINUTES - 6 FEBRUARY 2024**
Author: Emilio Andari, Manager Engineering Services
Approver: Tom O'Hanlon, Director Infrastructure & Sustainability
File No: 24/33952
Purpose of the Report: For the Committee to consider the recommendations of the Woollahra Local Traffic Committee
Alignment to Delivery Program: Strategy 11.3: Ensure effective and efficient governance and risk management.

Recommendation:

THAT the Recommendations Y1-Y4 contained in the minutes of the Woollahra Local Traffic Committee held on Tuesday 6 February 2024 be adopted.

Executive Summary:

This report presents the Woollahra Local Traffic Committee Minutes held on 6 February 2024 for consideration by the Finance Community & Services Committee of 4 March 2024. The minutes are presented as **Attachment 1**.

Options:

There is no options on this report.

Community Engagement and / or Internal Consultation:

There is no community engagement and/or internal review on this report.

Policy Implications:

There is no policy implications on this report.

Financial Implications:

There is no financial implications on this report.

Resourcing Implications:

There is no resourcing implications on this report.

Conclusion:

The minutes are presented for consideration by the Finance, Community & Services Committee.

Attachments

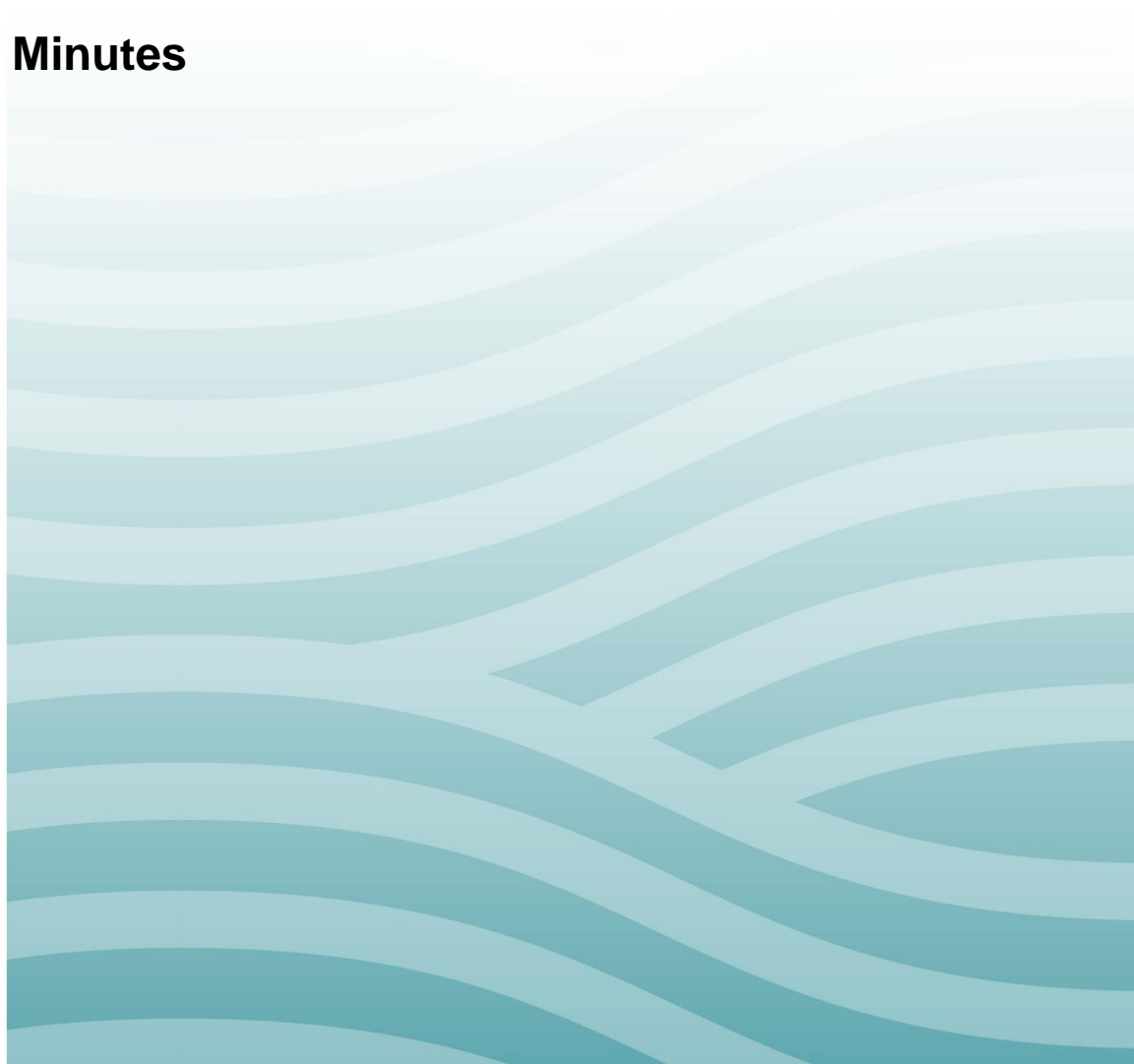
1. Woollahra Local Traffic Committee Minutes - 6 February 2024 [↓](#) 



Woollahra Local Traffic Committee

Tuesday 6 February 2024
10.00am

Minutes



Woollahra Local Traffic Committee Minutes

Tuesday 6 February 2024

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4.	Confirmation of Minutes of Meeting held on 5 December 2023	
5.	Matters arising from Minutes of Previous Meeting	
6.	Woollahra Local Traffic Committee recommendations not adopted or amended by Woollahra Council Finance, Community & Services Committee	
7.	Extraordinary Meetings	
8.	Late Correspondence	

Items to be Recommended to the Finance, Community and Services Committee by the Woollahra Local Traffic Committee for Consideration

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Y2	Drumalbyn Road, Bellevue Hill – Timed No Parking Restrictions	5
Y3	Little Queens Lane, Vaucluse – Reduction of No Stopping Restrictions.....	5
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Woollahra Municipal Council
Woollahra Local Traffic Committee Minutes

6 February 2024

Woollahra Local Traffic Committee Minutes

The meeting of the Woollahra Local Traffic Committee was held in the Tarralbe Room (Committee Room), 536 New South Head Road, Double Bay, on 6 February 2024 at 10.00am.

Attendance

Committee Members:

Present:	Ever Fang	(Woollahra Municipal Council) (Chair)
	Daniel Davidson	(Transport for NSW)
	Sgt Anthony Leeson	(Eastern Suburbs Police)
	Dylan Gojak	(Kellie Sloane MP Representative)

Staff:	Jonas Manalang	(Woollahra Municipal Council)
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Also in Attendance:	John Durack	(Resident – Item Y4)
	Suzanne Blake	(Resident – Item Y4)
	Arturo Camacho	(Architect – Item Y4)
	Paul Western	(Builder – Item Y4)
	Peter Moore	(Builder – Item Y4)

1. Opening

The Acting Traffic and Transport Team Leader declared the Woollahra Local Traffic Committee of 6 February 2024 open and welcomed Committee Members.

2. Acknowledgement of Country (Gadigal People and Birrabirragal People)

The Manager Engineering Services read the following Acknowledgement of Country:

I would like to acknowledge that we are here today on the land of the Gadigal and Birrabirragal people, the traditional custodians of the land. On behalf of Woollahra Council, I acknowledge Aboriginal or Torres Strait Islander people attending today and I pay my respects to Elders past, present and emerging.

3. Leave of Absence and Apologies

Apologies:	Alex Greenwich MP	(Member for Sydney)
	Emilio Andari	(Woollahra Municipal Council)

4. Confirmation of Minutes of Previous Meeting

The minutes of Meeting No. 13/23 held in Tarralbe Room (Committee Room), 536 New South Head Road, Double Bay, and via teleconference on Tuesday, 5 December 2023 confirmed by Sgt Anthony Leeson.

5. Matters arising from Minutes of Previous Meeting

Nil.

6. Woollahra Local Traffic Committee recommendations not adopted or amended by Woollahra Council Finance, Community & Services Committee

Nil.

Woollahra Municipal Council
Woollahra Local Traffic Committee Minutes

6 February 2024

7. Extraordinary Meetings

Nil.

8. Late Correspondence

Two (2) late submissions were received in regards to Item Y4. A copy of these documents have been distributed to the other committee members via email and were also presented at the meeting.

Woollahra Municipal Council
Woollahra Local Traffic Committee Minutes

6 February 2024

**Items to be Recommended to the Finance, Community and Services Committee by
the Woollahra Local Traffic Committee for Consideration**

Item No: Y1
Subject: 10 MILITARY ROAD, WATSONS BAY - PARKLET INSTALLATION
Authors: Ever Fang, Traffic & Transport Engineer
Jim Allison, Senior Property Officer
Approver: Emilio Andari, Manager Engineering Services
File No: 24/11389
Purpose of the Report: To seek approval for the installation of a parklet
Alignment to Delivery Program: Strategy 6.2: Management of public parking on-street and off-street.

Recommendation:

That approval be granted to replace one (1) unlimited parking space, six (6) metres in length, located in front of property No.10 Military Road, Watsons Bay, as shown in Attachment 1, with 'No Stopping' restrictions for the installation of a parklet to support and encourage community connection by introducing additional outdoor seating and planting, subject to the following conditions:

- A. Any directive provided by the NSW Police Force is to be complied with.
- B. All conditions contained within the Parklet Approval issued by Woollahra Council (Attachment 2).
- C. The parklet is to operate in conjunction to the approved footway dining permit and operate for a period of up to 7 years commencing from the date in which the applicant is notified of the determination of their application.
- D. The applicant must supply and erect protection barriers for the parklet to ensure public safety. The applicant must remove any implemented barriers, at the completion of the period.
- E. The applicant must inform Council officers when the parklet is no longer required and will be removed.
- F. Council shall be indemnified against all claims for damage or injury that may result from either the activities or from the occupation of part of the public road reserve during the activities. A copy of Public Liability Insurance Cover to the value of \$20,000,000 shall be provided to Council prior to the installation of the parklet and Council must be listed as an interested party on the insurance policy.
- G. Council shall be reimbursed for the cost of repair of any damage caused to Council property as a result of the activities.
- H. Noise created by the use of equipment or activity must be controlled as required by the 'Protection of the Environment Operations (Noise Control) Regulation 2000'.
- I. The applicant must make arrangements to remove all waste/rubbish from the parklet on a daily basis.
- J. Failure to comply with any of these conditions may result in the cancellation of the use of a parklet at Council's discretion.
- K. Woollahra Council reserves the right to cancel this approval at any time.

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Woollahra Municipal Council
Woollahra Local Traffic Committee Minutes

6 February 2024

Note: Daniel Davidson from TfNSW addressed the Committee to ensure that parklet meets Council standards, specifically, the need for a 3.5-metre travel lane adjacent to the parklet and the importance of ensuring the barriers meet required structural integrity standards.

Committee Vote: Unanimous Support

Item No: Y2
Subject: **DRUMALBYN ROAD, BELLEVUE HILL – TIMED NO PARKING RESTRICTIONS**
Author: Frank Rotta, Traffic & Transport Engineer
Approvers: Ever Fang, Traffic & Transport Engineer
Emilio Andari, Manager Engineering Services
File No: 24/13420
Purpose of the Report: To respond to a request from local residents
Alignment to Delivery Program: Strategy 6.2: Management of public parking on-street and off-street.

Recommendation:

That a section of 'No Parking 8am-6pm' restrictions, 26 metres in length (3 car parking spaces), as shown in Attachment 1, along the western side of Drumalbyn Road, Bellevue Hill, and adjacent to property Nos.87 & 89 Drumalbyn Road, be installed in order to improve access and traffic safety by removing the pinch point at this location.

Committee Vote: Unanimous Support

Item No: Y3
Subject: **LITTLE QUEENS LANE, VAUCLUSE – REDUCTION OF NO STOPPING RESTRICTIONS**
Author: Frank Rotta, Traffic & Transport Engineer
Approvers: Ever Fang, Traffic & Transport Engineer
Emilio Andari, Manager Engineering Services
File No: 24/13492
Purpose of the Report: To respond to a request from a local resident
Alignment to Delivery Program: Strategy 6.2: Management of public parking on-street and off-street.

Recommendation:

That the existing 'No Stopping' restrictions on the south-western side of Little Queens Lane, Vaucluse, immediately north-west of Queens Avenue, be reduced by eleven (11) metres to increase parking opportunities at this location, as shown in Attachment 1.

Committee Vote: Unanimous Support

Woollahra Municipal Council
Woollahra Local Traffic Committee Minutes

6 February 2024

Item No: Y4
Subject: **23 ELIZABETH STREET, PADDINGTON - CONSTRUCTION TRAFFIC MANAGEMENT PLAN**
Author: Ever Fang, Traffic & Transport Engineer
Approver: Emilio Andari, Manager Engineering Services
File No: 24/16916
Purpose of the Report: To seek approval for a Construction Traffic Management Plan
Alignment to Delivery Program: Strategy 6.3: Ongoing responsiveness to traffic congestion, noise and speeding.

Recommendation:

THAT:

- A. The Construction Management Plan (CMP) for the redevelopment of property No.23 Elizabeth Street, Paddington, prepared by *Varga Traffic Planning Ref 23164 (Rev 3)*, as shown in Attachment 1, be approved;
- B. The applicant be advised that this approval relates only to the condition of consent – D.11 for DA2022/350/1 and does not constitute an approval for any Stand Plant, Works Zone or any other Permits which require separate applications and subsequent approvals, at the appropriate stages (if required) of this construction project;
- C. The applicant must comply with any directive provided by the NSW Police Force;
- D. The applicant must minimise the size of construction vehicles and must not use vehicles larger than B99 vehicles accessing the site via Elizabeth Place and Elizabeth Street. Construction vehicles must access and exit the site in a forward direction, where possible, and minimise disruption to vehicular and pedestrian traffic along the route. Any reversing movements must be restricted to shortest distance and under full traffic control supervision;
- E. The applicant must liaise fortnightly with the developers/builders undertaking works for other developments occurring in close proximity (500m or in the same street) to the subject site, in order to minimise the cumulative traffic and parking impacts in the area (e.g. major concrete pours should not occur on more than 1 site on any particular day);
- F. Construction traffic associated with the development must minimise the use of public roads and public parking facilities (e.g. on-street parking) where feasible;
- G. When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times;
- H. Construction works or construction related traffic must not impede access of Council's waste operation.
- I. Construction works are to be only undertaken within hours of work stipulated in E.5 of Consent Conditions to mitigate impact of the work upon amenity of the neighbourhood;
- J. The applicant must ensure that access for residents, businesses and emergency vehicles are maintained at all times;
- K. The applicant must ensure that no marshalling or queuing of construction vehicles occur on public roads. Arriving vehicles that are not able to enter the site must not use any local road, including Oxford Street, as a holding point until access becomes available;

Woollahra Municipal Council
Woollahra Local Traffic Committee Minutes

6 February 2024

- L. All works must be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.
- M. The applicant must liaise with all affected neighbours in Elizabeth Place, Elizabeth Street, Oxford Street and Underwood Street, Paddington that require access via Elizabeth Place, prior to the commencement of construction works. Notification must be sent to these affected properties at least seven (7) days prior to each stage of earth works and commencement for each of the following construction activities:
 - i. Partial Demolition & Site Establishment;
 - ii. Excavation of Basement & Piling;
 - iii. Erection of Basement Structure; and
 - iv. Concrete Pours.
- N. A community Liaison Officer and/or Site Manager must include their contact details (email and a mobile phone number) in clear and concise signage on-site, with this signage to be visible to the public at all times, in order to enable members of the community to contact an appropriate person, as required. The Community Liaison Officer and/or Site Manager must liaise with Council's Traffic and Transport Engineers on a recurring basis to ensure all construction traffic associated with the development site are undertaken in an appropriate manner. These matters should be addressed by the Community Liaison Officer and/or Site Manager in the following format:
 - i. Maintain and keep on-site a register of complaints received from the local community;
 - ii. Fully investigate all complaints received;
 - iii. Notify the complainant of the results and actions arising from the investigation; and
 - iv. Ensure that the complaints register is available on request to Council Staff.

Note: Mr John Durack addressed the Committee to request that the commencement be deferred until the end of the excavation stage of the Oxford Street development, a limit of 10 minutes for any vehicle standing on Elizabeth Place and restricting the frequency of parking to a specific number of times per hour.

Ms Suzanne Blake addressed the Committee as she believes the plan doesn't guarantee a travel lane and access to her property when vehicles or trucks are parked on Elizabeth Place. Ms Blake also suggested avoiding concurrent construction with the Oxford Street development to minimise disruption.

Mr Arturo Camacho addressed the Committee to highlight that they will be using a mini tipper on the project. The mini tipper will be partially straddling the property to ensure a travel lane remains available for residents to access their properties. To further minimise disruption to residents, they have arranged for site tradies to park along Centennial Park, freeing up on-street parking spaces.

Mr Peter Moore addressed the Committee to note that 70% of construction for the project will occur within the worksite. For the remaining 30% involving excavation and construction, they will utilise a mini tipper in Elizabeth Place and will accommodate residents' access through Elizabeth Place.

Committee Vote: Unanimous Support

Woollahra Municipal Council
Woollahra Local Traffic Committee Minutes

6 February 2024

Items for Discussion by Committee Members

Item No: Z1
Subject: **TRANSPORT FOR NSW FUNDED PROJECTS STATUS**
Author: Ever Fang, Traffic & Transport Engineer
Approver: Emilio Andari, Manager Engineering Services
File No: 24/15538
Purpose of the Report: Monthly Update on Transport for NSW Funded Projects
Alignment to Delivery Program: Strategy 6.1: Facilitate an improved network of accessible and safe active transport options.

Recommendation:

THAT the information be received and noted.

Committee Vote: Unanimous Support

11. General Business

Dylan Gojak from Kellie Sloane's Office has raised discussion regarding the intersection issues at New South Head Road and Kiaora Road/Bellevue Road. Dylan also raised the potential for pedestrian crossings at the intersection of Beach Street & William Street, Double Bay, and Towns Road & New South Head Road, Rose Bay.

Daniel Davidson from TfNSW acknowledged the concerns at New South Head Road and Kiaora Road/Bellevue Road and confirmed a future there is a listed project under the 'Safer Roads Program', but no set timeframe on this project has been committed.

Council's Acting Traffic and Transport Team Leader, Ms Ever Fang, has acknowledged the concerns raised for the intersections of Beach Street & William Street, Double Bay, and Towns Road & New South Head Road, Rose Bay. Future site inspections will be conducted to assess whether these locations meet the necessary warrants for pedestrian crossings and to determine the most suitable configuration for each location.

There being no further business the meeting concluded at 11:19am.

We certify that the pages numbered 1 to 8 inclusive are the Minutes of the Woollahra Local Traffic Committee Meeting held on 6 February 2024.

Chairperson

Secretary of Committee

Item No:	D3 Delegated to Committee
Subject:	CONFIRMATION OF MINUTES OF THE WOOLLAHRA SMALL SCULPTURE PRIZE COMMITTEE MEETING HELD ON 13 FEBRUARY 2024
Author:	Pippa Mott, Director Woollahra Gallery at Redleaf
File No:	24/31812
Purpose of the Report:	The Minutes of the Woollahra Small Sculpture Prize Committee of 13 February 2024 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.
Alignment to Delivery Program:	Strategy 3.1: Promote opportunities for innovative, creative and cultural initiatives that support the community.

Recommendation:

THAT the Minutes of the Woollahra Small Sculpture Prize Committee Meeting of 13 February 2024 be taken as read and confirmed.

Executive Summary:

This report presents the Woollahra Small Sculpture Prize Committee Meeting Minutes of 13 February 2024 for review and confirmation by the Finance Community and Services Committee. See **Attachment 1**.

Discussion:

The main points discussed at the Woollahra Small Sculpture Prize Meeting, held 13 February 2024 were:

- A debrief was provided for the 2023 Woollahra Small Sculpture Prize, held Wednesday 27 September – Sunday 5 November 2023. It was regarded as a great success with:
 - 610 entries received, of which 19 were from international artists;
 - 17 artworks were sold during the exhibition to a value of \$33,280;
 - 2,445 visitors attended the Gallery, averaging 81.5 visitors per day. This is a 10.7% increase in visitation from the previous year; and
 - \$18,318 (excluding GST) and wine sponsorship to the value of \$1,500 was received.
- Planning for the 2024 Woollahra Small Sculpture Prize was discussed. The exhibition will open on 12 September until 20 October 2024. The Committee resolved to select up to 6 potential judges from the Gallery Director's shortlist of potential 28 Judges. The draft 2024 Sponsorship Proposal will be circulated to the Committee, prior to distribution to sponsors.

Options:

Submission of minutes to the Finance Community and Services Committee is a procedural matter for the confirmation of the minutes.

Community Engagement and / or Internal Consultation:

No internal or external consultation has taken place in the preparation of this report.

Policy Implications:

There are no direct policy implications as a result of this report.

Financial Implications:

There are no direct financial implications as a result of this report.


Resourcing Implications:

There are no direct resourcing implications as a result of this report.

Conclusion:

The Minutes of the Woollahra Small Sculpture Prize Committee meeting of 13 February 2024 are presented for confirmation.

Attachments

1. Unconfirmed Minutes for the Woollahra Small Sculpture Prize Committee Meeting 13 February 2024 [!\[\]\(4f6d8a8b127300a02d56d34d01423d15_img.jpg\)](#) 



Woollahra Small Sculpture Prize Committee

Tuesday 13 February 2024
5.00pm

Minutes

Unconfirmed

Woollahra Municipal Council
Woollahra Small Sculpture Prize Committee Minutes

13 February 2024

Woollahra Small Sculpture Prize Minutes

Tuesday 13 February 2024

Present: Councillors: Isabelle Shapiro (Chair)
Nicola Grieve

**Community
Representatives:** Christopher Dawson
Stella Downer
Elizabeth Hastings
Professor Emeritus Ian Howard
Anna Waldman
Ali Yeldham

Staff: Anna Legge (Gallery Administration Officer)
Pippa Mott (Director Woollahra Gallery at Redleaf)
Vicki Munro (Manager Community and Culture)
Patricia Occelli (Director Community and Customer Experience)

Others: Nil

Meeting opened: 5.05pm held in person.

1. Opening

The Chair declared the meeting open and welcomed all those in attendance.

2. Acknowledgement of Country

The Chair acknowledged the traditional custodians of the land, the *Gadigal* and *Birraborragal* people the traditional custodians of the lands upon which we meet

3. Apologies

An apology was received from Allison Renwick.

4. Declarations of Interest

Nil

5. Late Correspondence

Nil

6. Confirmation of Minutes

Item No: 6.1
Subject: CONFIRMATION OF MINUTES OF THE WOOLLAHRA SMALL SCULPTURE PRIZE COMMITTEE HELD ON 8 AUGUST 2023
Author: Pippa Mott, Director Woollahra Gallery at Redleaf
Purpose of the Report: To present the minutes of the Woollahra Small Sculpture Prize Committee meeting 8 August 2023.

(Shapiro/Grieve)

Resolved:

THAT the minutes of the Woollahra Small Sculpture Prize Committee meeting of 8 August 2023 be received and noted.

7. Items for Discussion

Item No: 7.1
Subject: WOOLLAHRA SMALL SCULPTURE PRIZE 2023 DEBRIEF AND PLANNING UPDATE FOR 2024 PRIZE
Author: Pippa Mott, Director Woollahra Gallery at Redleaf
Purpose of the Report: To provide a debrief of the 2023 Woollahra Small Sculpture Prize and to provide an update on planning for the 2024 Woollahra Small Sculpture Prize

Discussion:

WSSP 2023 Debrief

Woollahra Municipal Council
Woollahra Small Sculpture Prize Committee Minutes

13 February 2024

- The Committee was debriefed on the 22nd Woollahra Small Sculpture Prize, 2023. The Gallery Director noted the significant number of entries (610) and the diversity of artists and artworks submitted.
- Consistent with broader art world application trends, the bulk of entries were received last minute. Councillor Shapiro noted issues with the handover of the full artist list to the new Gallery Director, which resulted in a small delay in the distribution of the WSSP opening round to the full artist list.
- There were several trends of note amongst finalists: a significant increase in international interest, with a total of 19 international entries; an increase in wall-mounted and suspended works; and a strong representation of works with kinetic, electronic or durational elements. The Committee was in agreement about the importance of Gallery / Prize accommodating works that extend beyond the plinth.
- Ian Howard, Ali Yeldham, Stella Downer, and Elizabeth Hastings noted the success of curatorial strategies in terms of artwork groupings, layout and artwork didactics.
- Councillor Shapiro noted that due to an earlier event timing and thus earlier sundown, stage lighting was required. This was intense and prevented speakers from seeing and engaging with their audience. With another early opening scheduled, an effort should be made to address this.
- The Gallery Director noted that the income from the 2023 prize was lower than the previous year, however, more artworks sold (17 versus 14 in the previous year). Artworks in the \$500-\$4,500 price range seemed to be the most saleable. The Committee agreed that this reduction in value reflects overall trends in the art market and broader consumer spending patterns, but that the overall commission total was a good result.
- The Gallery Director noted the upward trend in visitation, with a 10.7% increase on 2022 visitation, and a 23.5% increase on 2021 visitation. The Committee discussed how to further improve visitation: members suggested contacting more diverse groups for tours, and sending invitations earlier. Ali Yeldham suggested that collector's circles and buying groups could be approached for the 2024 prize.
- Sponsorship was down from 2022: only 70.5% of the forecasted income was secured. The Committee noted that many possible sponsors/donors were unable to come on board due to conflicts of interest.
- Articulate PR achieved extensive media coverage across print, digital and radio.
- The Committee emphasised the success of the expanded Artist Talks event with prize finalists, and agreed that the panel approach – two artists + mediator – in thematic groupings was more successful than the previous “roaming” format.
- The Committee discussed the collection of past winning works and how/where to display this collection, noting the significant responsibility we have in caring for these assets.
- Anna Waldmann queried why the works are not shown permanently at the Gallery. Patricia Ocelli explained that this was due to limited space in the Gallery.

WSSP 2024 Planning Update

- The 2024 WSSP will open on Thursday 12 September, with an earlier presentation to accommodate Council elections and the Jewish holiday, Rosh Hashanah.
- Call for entries will be staged earlier than last year – launching in April with a firm closing date of 30 June 2024.
- The Gallery Director presented a list of 28 potential judges, with the aim to select up to 6 potential judges.
- The Committee agreed that a combination of artists + industry experts is recommended for the judging panel, and emphasised the need for judges with a high profile as this will help with the promotion of the prize.
- Anna Waldmann noted that artists want to be judged by their peers, so artist participation will be key. This view was supported by Stella Downer.
- The Committee agreed with the list of 28, and requested the addition of Penelope Benton (Executive Director of NAVA) and Vivienne Webb.

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Woollahra Municipal Council
Woollahra Small Sculpture Prize Committee Minutes

13 February 2024

- The Committee noted keen interest in Patricia Piccinini, Ramesh Mario Nithiyendran and Callum Morton.
- The Committee would like to keep the proposed list of judges as a rolling list for future years.
- The Gallery Director discussed sponsorship with the committee, noting the 2024 target is \$30,000, with sponsorship being sought from mid-March to 30 June 2024.
- The Committee discussed some strategies to reach this target:
 - Approaching previous/loyal sponsors first and then opening up to a broader network;
 - Emphasising exclusivity - e.g., exclusive provisions for sponsors (hosting exclusive/private events in the Gallery); and
 - Creating competition and urgency (e.g., approaching more than one per industry)
- Manager, Community and Culture advised that the key components of the 2024 Sponsorship Proposal would remain the same as for the previous year.
- Anna Waldmann suggested approaching auction houses for possible sponsorship.
- Patricia Occelli discussed DGR status, clarifying arrangements for Donors – donations are tax-deductible and donors can be acknowledged but do not receive the same benefits as sponsors. This information will be added to the 2024 Sponsorship Proposal.

(Shapiro/Grieve)

Resolved:

THAT the Committee

- A. Received and noted the Woollahra Small Sculpture Prize 2023 Debrief and 2024 Planning Update report.
- B. Requested the Gallery Director to circulate an online poll for the selection of up to 6 potential judges for the upcoming 2024 Woollahra Small Sculpture Prize, by Sunday 18 February, 2024.
- C. Requested the 2024 WSSP Sponsorship Package be updated and circulated to the Committee, prior to distribution to potential sponsors.

8. General Business

Nil.

9. Advisings

Nil.

10. Next Meeting

The next meeting is scheduled for early May 2024.

There being no further business the meeting concluded at 6.20pm.

Item No: R1 Recommendation to Council
Subject: **ROSE BAY COMMUNITY GARDEN LICENCE RENEWAL**
Authors: Michelle Rose, Environmental Education Officer
Micaela Hopkins, Team Leader Environment & Sustainability
Approver: Tom O'Hanlon, Director Infrastructure & Sustainability
File No: 24/26804
Purpose of the Report: To support the continuation of the Rose Bay Community Garden and propose an additional Deed of Licence (User Agreement) for three years with an option for Council to extend for two years.
Alignment to Delivery Program: Strategy 5.1: Enhance council provided community facilities to foster connections between people and place and enhance quality of life.

Recommendation:

THAT Council:

- A. Enter into a Deed of Licence (User Agreement) between Woollahra Municipal Council and the Rose Bay Community Garden Inc. to be prepared for three years with an option for Council to extend the agreement for a further two year period.
- B. Congratulate and thank the Rose Bay Community Garden Inc. volunteers for creating, maintaining and enhancing a valuable and vibrant space for the Woollahra community.
- C. Authorise the General Manager to execute a new Deed of Licence in similar terms to the existing Deed of Licence.

Executive Summary:

The Rose Bay Community Garden is subject to a Deed of Licence Agreement between Council and the Rose Bay Community Garden Inc. The current Deed of Licence (Annexure 1) was for a period of three years and was extended for two years according to an option in the agreement. The licence now requires renewal.

Discussion:

The Rose Bay Community Garden was established in October 2014, creating a safe, welcoming place for people to meet, learn and grow organic vegetables and fruit. The garden has a strong membership base with members participating in monthly working bees, maintaining and enhancing the garden facilities.

The garden is located next to Woollahra Park at the end of Manion Ave, Rose Bay. The site is fenced and includes individual plots, communal plots, multifunctional meeting space, chicken run, shed, bee platform and compost hub.

The current Deed of Licence (User Agreement) between Council and Rose Bay Community Garden Inc. commenced in March 2019. It is proposed that a new User Agreement be prepared for a period of three years with the option for Council to extend the agreement for a further two years. This is consistent with the User Agreements for Cooper Park Community Garden and Paddington Community Garden.

Activities and achievements

Throughout the last five years the garden members have been:

- Continuing core activities by providing a safe and protected open space for members to enjoy planting herbs, vegetables and flowers in communal areas and member plots.
- Providing a place to learn and share gardening and sustainable living knowledge and extending this through educational workshops.
- Responding to the impacts of the COVID years that had a big impact on the garden community, member engagement, and wider connections. The group are still in the process of rebuilding these connections. Communal planting areas are also being reinvigorated.
- Creating opportunities for new members to join. There was a substantial increase in membership post- COVID with 8 plots recently allocated to newest members.
- Hosting workshops including composting, seed-raising and propagation.
- Encouraging community access through: Neighbour Day BBQs, participation in the Edible Garden Trail, hosting a Jewish Care workshop for young adults with disabilities and hosting a tour for visitors from across Australia as part of the Community Gardens Association.
- Establishing a new CarbonCycle Compost System. This system allowed greater kitchen waste collection from homes and local businesses to produce more, better quality compost with less effort.
- Maintaining regular working bees and adapting them to ensure the range of tasks offered can be accessible to all members.
- Providing ongoing care for native and honey bee hives, including vigilant monitoring for Varroa Mite.
- Caring for the chickens.
- Hosting researchers and students from universities interested in urban agriculture and the role of community gardens in supporting pollinators.

Future operations

The garden Committee have informed Council Officers their priorities for the coming years include:

- Continuing to maintain and care for the existing structures to ensure productivity in the garden.
- Repairing raised plots that are showing signs of decay and maintaining the bee platform.
- Building and improving soil through composting.
- Establishing a dedicated propagation area on the site using funds from a Woollahra Council Environmental Grant. This will build skills in propagation, reduce waste, expand workshop opportunities and improve accessibility.
- Starting a seed bank.
- Planning a 10th anniversary celebration later this year.
- Continuing to host educational workshops with support from Council.
- Continuing to work on ensuring the garden is a collaborative and harmonious place to make friendships and connections, grow, share knowledge and collaborate.

Options:

Council may resolve in line with the recommendation/s as included in this report or, Council may choose to resolve in some other manner.

Community Engagement and / or Internal Consultation:

Use of the Rose Bay Community Garden land is governed by the Local Government Act 1993 (S.47A) and [Council's Community Gardens Policy](#). The preparation of a User Agreement requires notification and exhibition.

Council undertook community consultation requesting feedback about the continuation of the garden over a period of 28 days from 30 January to 26 February 2024. Consultation was undertaken via the 'Your Say' online platform, notices on Council's website and notices at the community garden.

The feedback received via the 'Your Say' page highlighted the important role the garden has in building community connections, providing garden space for those living in apartments and sharing skills to live more sustainably.

The comments received were overwhelmingly in support of the continued use of the land as community garden. Only one respondent did not support continuation of the garden, however they did not provide any reasons for this or raise any concerns.

Supportive comments included:

- What an amazing treasure in our municipality. If it was possible to extend the size of it that would be my suggestion. If not, leave well alone and be proud of this oasis in our backyards.
- Opportunity to look after a garden when you live in an apartment and to learn from other members on gardening tips, as well as the social events.
- The opportunity to grow fresh organic veggies and meet people I wouldn't usually meet to share our love of gardening and reducing waste.
- A beautiful community project bringing together a neighbourhood. An important teaching environment, a garden to be at peace in, a place for conversation, so much. It absolutely must continue forever.
- I have recently retired and will soon join. I think it's a great activity to bring people together & look after our environment.
- Provides important opportunities for everyone in Woollahra to garden, grow fruit/vegetables, and promote social interaction
- The garden doesn't just benefit members, I have met so many people in the eastern suburbs who are not part of the garden, but love walking past, or visiting. We always welcome anyone to come and have a look around.
- Please keep this great work by volunteers going.
- It is a fabulous use of land and a wonderful communal space.
- Eastern Suburbs District Rugby Union Football Club fully supports the garden.

Policy Implications:

This report relates to and is consistent with Council's Community Gardens Policy.

The report is consistent with the revised Leasing and Licensing of Council Controlled Land Policy on the agenda at this FC&S meeting (4 March 2024). Section 5.iii of the Draft Policy recognises that Council may enter into a new licence with the incumbent without reference to an expression of interest process due to the historical, social and recreation ties some existing licensees such as community gardens have.

Financial Implications:

The Community Garden is self-funded through membership fees. Council's Operational Budget includes a small allocation to support Community Gardens.

Resourcing Implications:

Council provides occasional in-kind support from staff to the Community Garden.

Conclusion:

The Rose Bay Community Garden has been established for almost ten years, transforming an underutilised patch of land into a valuable community space enabling local residents to participate in organic gardening and learning about living more sustainably. The garden continues to thrive with members maintaining the space and making improvements to ensure the space remains productive, beautiful and functional. The members should be proud of their achievements.

It is recommended to prepare a Deed of Licence (User Agreement) for three years (with the option of extension for a further two years) to enable the community garden to continue to thrive.

Attachments

1. Deed of Licence - User Agreement - Rose Bay Community Garden - Rose Bay Community Garden Incorporated [↓](#) 

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Deed of Licence (User Agreement)

Rose Bay Community Garden

Woollahra Municipal Council

and

Rose Bay Community Garden Incorporated

Ref BSO:952461 2 October 2019

Doc ID 673756613/v1

Level 14, Australia Square, 264-278 George Street, Sydney NSW 2000 Australia
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Attachments

- "A" Plan of Licensed Premises
- "B" Woollahra Municipal Council Community Gardens Policy
- "C" Constitution
- "D" Garden Plan

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Deed of Licence (User Agreement): Rose Bay Community Garden

Date 14th November 2019

Parties **Woollahra Municipal Council**

536 New South Head Road, Double Bay, New South Wales, 2128

(Licensor)

Rose Bay Community Garden Incorporated (Incorporation No: INC9897184)

(Licensee)

Recitals

- A. The Licensed Premises comprises community land owned by the Licensor.
- B. The Licensee is an incorporated non-profit association which has agreed to develop, manage and operate a Community Garden at the Licensed Premises.
- C. The Licensor has agreed to licence the Licensed Premises to the Licensee for the Licence Term upon the terms and conditions of this deed.

This deed witnesses that in consideration of, among other things, the mutual promises contained in this deed the parties agree as follows:

1. Definitions and interpretation clauses

1.1 Definitions

In this deed:

Act means the *Local Government Act 1993*

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Community Garden	has the meaning as provided in Item 2 of the Reference Schedule.
Community Gardens Policy	means the document attached to this deed marked " B " as amended from time to time.
Constitution	means the Constitution of the Licensee prepared in accordance with the Associations Incorporation Act 1984 which are attached to this deed marked " C " as amended from time to time.
Environmental Laws	means any law of State protection policy incorporated by reference to or being part of any law relating to the protection of the Environment.
Garden Plan	means the document attached to this deed marked " D " as amended from time to time.
Improvements	means all improvements funded by the Licensee and made by the Licensee to the Licensed Premises (whether before or after the Licence Commencement Date) including all elevated garden bed structures; irrigation systems, watering systems, sheds, water tanks and sun shelters installed by the Licensee).
Licence	means the licence granted under Part 2 of this deed.
Licence Commencement Date	means the date for the commencement of the Licence Term specified in Item 1 of the Reference Schedule.
Licence Term	means a period of three (3) years commencing on the Licence Commencement Date.
Licensed Premises	means that part of the Park edged red as shown on the attached Plan marked " A ".
Licensee	means Rose Bay Community Garden Incorporated (Incorporation No: INC 9897184) and its successors and where not repugnant to the context, its servants and agents.

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Licensee's Goods	means all goods and chattels (excluding all Improvements) funded by the Licensee and used by the Licensee in connection with operation of the Community Garden at the Licensed Premises (including all compost tumblers, hoses and gardening tools and equipment).
Licensee's Obligations	means all of the Licensee's obligations under this deed.
Licensor	means Woollahra Municipal Council.
Member	means a registered member of the Licensee.
Member's User Agreement	means the standard agreement between the Licensee and a Member specifying the terms and conditions of the Member's right to use the Licensed Premises, including all such terms specified in the Community Gardens Policy.
Plan of Management	means the Plan of Management in relation to the Park adopted by the Licensor (as amended from time to time).
Park	Woollahra Park.
Reference Schedule	Means the reference schedule to this deed.

1.2 Interpretation

- (a) Where used in this deed, words importing the singular number or plural number shall include the plural number and singular number respectively and words importing the masculine gender shall include the feminine or neuter gender.
- (b) The headings of the various parts of this deed have been inserted to assist the parties in the reading of this deed but must not be taken into account in the interpretation of any of the clauses of this deed.
- (c) Where a party to this deed comprises more than one person or corporation, the covenants of that party in this deed will bind the persons and/or corporations constituting that party jointly and severally.

2. Grant of Licence

- 2.1 The Licensor grants to the Licensee a non-exclusive licence to use the Licensed Premises for the Licence Term.
- 2.2 The Licence is subject to the Act.
- 2.3 The Licence does not confer on the Licensee the right of exclusive possession or occupation or use of the Licensed Premises.
- 2.4 Nothing contained in this deed is intended to or will confer on the Licensee any right as tenant of the Licensed Premises or create the relationship of landlord and tenant between the parties and any such implication or inference is expressly negated.
- 2.5 The Licensor intends towards the end of the Licence Term, to review the management and operation of the Community Garden at the Licensed Premises and consider the expected outcomes outlined in the Garden Plan for the Licensed Premises and that this may lead to the Licensor offering to renew the Licence for a further two (2) years from the expiration of the Licence Term upon terms and conditions then agreed between the Licensor and the Licensee in writing.

3. Licence fee and service charges

3.1 Licence Fee

No licence fee is payable by the Licensee for the Licence.

3.2 Payment for services to the Licensed Premises

- (a) The Licensee must pay during the Licence Term within fourteen (14) days after demand, all costs, fees, expenses and charges in respect of the following during the Licence Term:
 - (i) usage of all water services in relation to the Licensed Premises;
 - (ii) provision of any security patrol, security monitoring, pest control and waste removal services in relation to the Licensed Premises;
 - (iii) any telephone services connected to the Licensed Premises; and
 - (iv) all other charges and impositions imposed by any public utility or authority for the supply of any other service (except electricity) separately supplied to the Licensed Premises.
- (b) The Licensor must pay all charges for usage of all electricity services in relation to the Licensed Premises during the Licence Term.
- (c) If there is no separate meter for recording or measuring charges for usage of water services in relation to the Licensed Premises, the proportion of charges

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for usage of water services in relation to the Licensed Premises shall be determined by the Licensor from time to time (acting reasonably).

4. Use of the Licensed Premises

4.1 Permitted use

- (a) The Licensee must not use the Licensed Premises other than as a Community Garden.
- (b) Without limiting the generality of clause 4.1(a), the Licensee must not use or permit to be used the Licensed Premises or any part thereof for:
 - (i) residential purposes (whether temporary or permanent); or
 - (ii) the keeping of livestock or poultry (except any livestock or poultry provisionally approved by the Licensor in writing).

Any such approval for provisional inclusion of livestock or poultry if granted, will initially be for a trial period with a review by the Licensor within twelve (12) months from the date of commencement of such use.

- (c) The Licensee must at all times during the Licence Term at the Licensee's expense, use the Licensee's best endeavours to develop, manage and operate the Licensed Premises as a Community Garden in accordance with the Members User Agreement.
- (d) The Licensee will be bound by the operating hours for use of the Licensed Premises as agreed between the Licensor and the Licensee in writing from time to time, but the Licensee must not use the Licensed Premises outside daylight hours (not before 7 am and not after 7 pm on any day (except during Daylight Savings Time) and not before 7 am or after 8pm during Daylight Savings Time without the written consent of the Licensor.
- (e) The Licensee must not generate noise that exceeds the background noise level when measured at the boundary of the Licensed Premises:
 - (i) outside the hours of 8 am to 6 pm inclusive Monday to Saturday inclusive; or
 - (ii) on Sundays and Public Holidays.
- (f) The Licensee must not park any motor vehicle or permit any motor vehicle over two tonne (2t) upon the Reserve other than for the purpose of loading and unloading of persons and goods near the main gate of the Licensed Premises and the Licensee must ensure that all such loading and unloading is undertaken between 8 am to 6 pm inclusive Monday to Saturday inclusive only and undertaken with minimum delay and that all motor vehicles used for that purpose are removed from the Reserve immediately upon completion of that purpose.

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- (g) The Licensee must not at any time during the Licence Term permit any:
- (i) noxious, immoral, noisome, offensive or illegal act, trade, business, occupation or calling to be exercised, carried on, permitted or suffered in or upon the Licensed Premises; or
 - (ii) act, matter or thing whatsoever to be done in or upon the Licensed Premises which shall or may cause unreasonable annoyance, nuisance, grievance, damage or disturbance to the occupiers or owners of adjoining or neighbouring lands or buildings.
- (h) The Licensee must at all times during the Licence Term:
- (i) fully comply with the Plan of Management in relation to the Licensed Premises and the Licensee's use and occupation of the Licensed Premises; and
 - (ii) manage the Community Garden in accordance with:
 - (A) the Community Gardens Policy;
 - (B) the Constitution; and
 - (C) the Garden Plan.
- (i) The Constitution must be consistent with the Community Gardens Policy and this deed and if there is any such inconsistency between the Constitution and the Community Gardens Policy, the provisions of the Community Gardens Policy must prevail to the extent of that inconsistency.
- (j) All produce must be chemically free or organically grown at the Licensed Premises and no produce from the Licensed Premises is to be sold for private profit (but such produce can be sold for fundraising purposes with the proceeds used to fund the Licensee's not for profit activities with respect to the Licensed Premises and/or donated).

4.2 Compliance with legal requirements

- (a) Without prejudice to the obligation of the Licensee to obtain the Licensor's consent to any alterations or additions made to the Licensed Premises, the Licensee must at all times during the Licence Term comply with all statutes, ordinances, proclamations, orders and regulations present or future affecting or relating to the Licensed Premises or the use thereof and with all requirements which may be made or notices or orders which may be given by any governmental, semi governmental, city, municipal, health, licensing or any other authority having jurisdiction or authority in respect of the Licensed Premises or the use thereof and without limiting the generality of this clause the Licensee must not use the Licensed Premises without obtaining any consent permit licence or authority which the Licensee may be obliged by law to obtain and without complying with the conditions of any such consent permit licence or authority PROVIDED THAT nothing in this clause will render the Licensee liable to make any structural alterations to the Licensed Premises nor provide any

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permanent fittings other than structural alterations or permanent fittings which may be rendered necessary by reason of the special nature of the business carried on or to be carried on by the Licensee on the Licensed Premises or for repairing damage caused by the negligence of the Licensee or the Licensee's servants agents or invitees.

- (b) The Licensee must not use or permit to be used the Licensed Premises for any illegal purpose or activity and in particular without limiting the generality of this clause, must not use the Licensed Premises for any purpose for which any appropriate development consent has not been obtained. The Licensee must ensure that the conditions of any such development consent are fully complied with.

4.3 Precautions against fire

The Licensee must take such precautions against fire on or in respect of the Licensed Premises as may be required under or in pursuance of any Act or Acts of Parliament now or hereafter in force or by any local or public authority and must at the Licensee's expense, do all such other acts matters and things as are or may under or in pursuance of any Act or Acts of Parliament now or hereafter to be in force be directed or required by any local or public authority to be done or executed during the Licence Term or in respect of the Licensed Premises whether by the owner or occupiers thereof PROVIDED THAT nothing in this clause will render the Licensee liable to make any structural alterations to the Licensed Premises nor provide any permanent fittings other than structural alterations or permanent fittings which may be rendered necessary by reason of the special nature of the business carried on or to be carried on by the Licensee on the Licensed Premises and other than structural alterations or permanent fittings which may be required made by the Licensee at any time prior to or during the Licence Term.

4.4 Display of signs

- (a) The Licensee must not paint, affix or exhibit or permit to be painted, affixed or exhibited onto or upon any part of the fencing or the Licensed Premises so as to be visible from outside the Licensed Premises any sign, notice, nameplate, placard, poster or other advertisement without the prior written approval of the Licensor which approval must not be unreasonably withheld and of the Council. No sign will be affixed to or exhibited on any part of the fencing or the Licensed Premises by the Licensee unless all necessary permits which must be obtained from the relevant local government authority or other appropriate authority have been obtained by the Licensee.
- (b) Immediately prior to vacating the Licensed Premises, the Licensee must remove all signs, names, advertisements or notices erected painted displayed affixed or exhibited upon or on the fencing or the Licensed Premises and must make good any damage or disfigurement caused by reason of such erection, painting, displaying, affixing, exhibiting or removal.

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4.5 Amenity of the Licensed Premises

- (a) The Licensee must not permit any noxious noisome or offensive trade business occupation or calling at any time during the Licence Term to be exercised carried on permitted or suffered in, upon or about the Licensed Premises and must not permit any act matter or thing whatsoever at any time during the Licence Term to be done in, upon or about the Licensed Premises which will or may cause annoyance nuisance grievance damage or disturbance to occupiers or owners of adjoining or neighbouring lands or buildings.
- (b) The Licensee must ensure that all waste bins used in connection with the Licensed Premises are kept in a location approved by the Licensor.
- (c) The Licensee must not without the written consent of the Licensor (which consent must not be unreasonably withheld) erect or place upon or within or without the Licensed Premises any radio or television aerial or antenna or any loudspeakers, screens or similar devices or equipment and must not without the written consent of the Licensor use or permit to be used any musical instrument, loudspeaker, radio, gramophone, television or other similar media or equipment likely to be heard or seen from outside the Licensed Premises.

4.6 Care of Licensed Premises

- (a) The Licensee must not do or permit or suffer to be done upon the Licensed Premises anything that may cause damage to the Licensed Premises.
- (b) The Licensee must not (other than in accordance with a specified use of the Licensed Premises approved by the Licensor in writing), store chemicals inflammable liquids or solids acetylene gas or alcohol volatile or explosive oils compounds or substances upon or about the Licensed Premises and must not use any such substances or fluid in or about the Licensed Premises for any purpose and must not in any way create any actual or potential fire hazard in or about the Licensed Premises. The Licensee must permit the Licensor at all times to enter upon the Licensed Premises and to abate any actual or potential fire hazard in or about the Licensed Premises and if such hazard in the reasonable opinion of the Licensor is caused by or results from the use or occupancy of the Licensed Premises by the Licensee, the Licensee must pay to the Licensor the costs and expenses incurred by the Licensor in carrying out such work.
- (c) The Licensee must at all times during the Licence Term:
 - (i) not unreasonably deny public access rights to the Licensed Premises;
 - (ii) manage safe access in and around the Licensed Premises; and
 - (iii) by the expiration of each period of twelve (12) months of the Licence Term, provide to the Licensor a written report providing details relating to the function of the Community Garden at the Licensed Premises and the Licensee's development, management and operation of the Community Garden at the Licensed Premises which reports will be

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used by the Licensor to monitor performance of the Licensee's obligations meeting all Licensor's objectives including in relation to development, management and operation of the Community Garden at the Licensed Premises in accordance with this deed.

4.7 No representation or warranty

Subject to Section 52A of the Conveyancing Act, 1919, no representation or warranty is given by the Licensor as to:

- (a) the purpose for which the Licensed Premises may be used or not used under any law or as to the existence or non-existence of any rights in connection with any such use; or
- (b) whether or not there is any contamination in, on or under the Licensed Premises or any adjacent premises; and
- (c) the Licensee acknowledges that the Licensee has made its own enquiries and satisfied itself in that regard in all respects.

4.8 Occupational health and safety

The Licensee agrees, at its cost, to ensure, to the maximum extent permitted by law, that the Licensee nor any of the Licensee's employees and agents does not do or fail to do anything which may result in the Licensor being in breach of any obligation imposed on the Lessor in respect of the Licensed Premises under the Work Health and Safety Act 2011.

4.9 Environmental laws

The Licensee must ensure the Licensee's occupation and use of the Licensed Premises complies with the Environmental Laws.

4.10 Licensor's right to inspect

The Licensor may at all reasonable times during the Licence Term without giving notice to the Licensee together with the Licensor's servants and agents enter upon the Licensed Premises to monitor performance of the Licensee's Obligations.

4.11 Licensor's right to terminate Licence

- (a) If at any time during the Licence Term the Licensed Premises is not used as a Community Garden in accordance with this deed, the Licensor may terminate the Licence by written notice to the Licensee.
- (b) If the Licence is terminated in accordance with clause 4.11(a) the Licensee must:
 - (i) vacate the Licensed Premises by the date required by the Licensor; and

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- (ii) remove from the Licensed Premises all of the Licensee's Goods and any items of the Improvements which the Licensee requires to be removed from the Licensed Premises; and
- (iii) leave the Licensed Premises in a clean state and tidy condition.

4.12 Licensors Obligations

The Licensor must during the Licence Term:

- (a) maintain the area adjacent to the Licensed Premises in accordance with the Council's maintenance schedule for that area;
- (b) promote and raise community awareness of the Community Garden at the Licensed Premises through various Council promotions and Council's website;
- (c) provide contact information to the public of existing community garden contracts for the Community Garden at the Licensed Premises; and
- (d) whenever reasonably practicable, provide mulch for use on the Licensed Premises.

4.13 Licensor's right to use

- (a) The Licensor reserves the right and liberty to the Licensor and all persons, claiming through or authorised by the Licensor, the right to install, maintain, use, repair, alter and replace all signs, drains, sewers, pipes, vents, flues, ducts, conduits, cables and wires passing through or along or in the Licensed Premises and to pass and run water, air, electricity, sewerage, drainage, soil, gas, smoke, fumes and other utility services through such drains, sewers, pipes, vents, flues, ducts, conduits, cables and wires and to enter upon the Licensed Premises for such purposes provided that in exercising such rights as aforesaid the Licensor shall not interfere with the Licensee in its permitted use of the Licensed Premises to any greater extent than may be reasonably necessary.
- (b) The Licensor may at all times during the Licence Term with reasonable notice to the Licensee, access and use the Licensed Premises for the purpose of undertaking environmental workshops and other educational purposes.
- (c) The Licensee must at all times during the Licence Term, ensure that one entry way to the Licensed Premises is padlocked with a standard lock as used by the Licensor.

5. Assignment and sub-licensing

- 5.1 The Licence is personal to the Licensee and is not assignable by the Licensee in any circumstances whatsoever and subject to clause 5.2, the Licensee must not sub-licence or part with or share possession of the Licensed Premises or any part of the Licensed Premises.

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- 5.2 Notwithstanding clause 5.1, the Licensee may allocate to Members the right to use in accordance with the Members User Agreement specified garden allotments within the Licensed Premises as determined by the Licensee.

6. Maintenance, repair and alterations

6.1 Repairs and maintenance

- (a) The Licensee must at all times during the Licence Term, maintain, repair, amend, replace, renew and keep the Licensed Premises together with all conveniences, amenities and appurtenances relating to the Licensed Premises in good and substantial repair order and condition in all respects and as nearly as possible in the same condition as at the Licence Commencement Date or in the event of any part thereof having been replaced or renewed during the Licence Term then as nearly as possible in the same condition as at the date of such replacement or renewal having regard to the age thereof, reasonable wear and tear excepted. The Licensee will not be required to carry out work of a structural nature to so much of the Licensed Premises as has not been constructed by or on behalf of the Licensee unless the need for such work arises as a result of the particular use to which the Licensee is putting the Licensed Premises or unless the work is required as a result of damage caused to the Licensed Premises by the Licensee its servants agents or invitees.
- (b) The Licensee must during the Licence Term maintain all approved signs notices and advertisements in good repair and the Licensee indemnifies and agrees to keep indemnified the Licensor its servants and agents against all actions, claims, demands, suits whatsoever arising out of or relating to such signs, notices or advertisements.
- (c) The Licensee must immediately make good any breakage defect or damage to the Licensed Premises or to any adjoining premises or any facility or appurtenance thereof occasioned by want of care misuse or abuse on the part of the Licensee or its invitees or otherwise occasioned by any breach or default of the Licensee under this deed.
- (d) The Licensee must at all times during the Licence Term at its expense, keep and maintain the gates, locks and fittings of the Licensed Premises in good and efficient working order and at the expiration of the Licence Term or sooner determination of the Licence, return all keys of the Licensed Premises to the Licensor.
- (e) The Licensee must at its expense at all times during the Licence Term, keep the Licensed Premises clean and tidy and free from rubbish and for this purpose must store and keep all waste materials and garbage in proper receptacles and must have all such waste materials and garbage regularly removed from the Licensed Premises.

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- (f) The Licensee must at its expense, at all times during the Licence Term cause the Licensed Premises to be kept free of noxious weeds and pests in accordance with the Licensor's then existing policies.
- (g) The Licensee must at its expense, maintain the Licensed premises, vegetation, fencing, signage, furniture and/or other structures to the satisfaction of the Licensor.

6.2 Alterations and additions

- (a) The Licensee must not and must not permit any person to make any alteration or addition to the Licensed Premises without the prior written consent of the Licensor and must in the course of such alterations or additions made with the prior written consent of the Licensor observe and comply with all requirements of the Licensor and of any public and other relevant authorities.
- (b) The Licensee must not without the prior written consent of the Licensor install any partitioning and/or any equipment or other installation in the Licensed Premises and any such approved partitioning, equipment or installation must be installed at the Licensee's cost by the Licensor or such persons nominated or approved by the Licensor in writing.

6.3 Licensee's fixtures

Except as otherwise provided in this deed or unless otherwise agreed in writing by the parties to this deed, all partitioning equipment and installations erected or installed in the Licensed Premises by or at the cost of the Licensee will remain the property of the Licensee who will be responsible for all maintenance thereof and in the case of plant and equipment for the repair and running costs thereof and such partitioning equipment and/or installations may and if so required by the Licensor must be removed by the Licensee at or immediately prior to the expiration of the Licence Term or any renewal of the Licence Term but the Licensee must upon such removal do no damage to the Licensed Premises and must reinstate the Licensed Premises to the condition it was in prior to such installations. If the Licensee fails or refuses to remove and carry away any such partitioning equipment and installations or any other articles or items belonging to the Licensee at or immediately following the determination of the Licence or any renewal thereof the Licensor may at the expense of the Licensee remove and dispose of the same and any such partitioning equipment installations and other items not removed by the Licensee as aforesaid shall become the property of the Licensor.

6.4 Security

The Licensee must use its best endeavours to protect and keep the Licensed Premises and any property contained in the Licensed Premises secure from theft, robbery or vandalism and must keep all doors of any structures and gates locked.

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6.5 Notice of damage

The Licensee must give to the Licensor written notice of any substantial or permanent damage to the Licensed Premises other services within twenty-four (24) hours of the Licensee becoming aware of such damage or malfunction.

6.6 Supply failure

Notwithstanding any implication or rule of law to the contrary, the Licensor must not in any circumstances be liable to the Licensee for any loss or damages suffered by the Licensee for any malfunction, failure to function of the water gas or electricity services or the appurtenances contained in the Park or the Licensed Premises or for blockage of any sewers, wasters, drains or storm water drains from any cause whatsoever.

6.7 Ownership of Improvements and Licensee's Goods

The Licensor and the Licensee agree:

- (a) until expiration of the Licence Term or sooner termination of the Licence;
 - (i) the Licensee will own the Improvements and the Licensee's Goods; and
 - (ii) the Licensee must at the Licensee's expense, maintain and repair the Improvements and the Licensee's Goods; and
- (b) on expiration of the Licence Term or sooner termination of the Licence:
 - (i) the Licensee must remove from the Licensed Premises all of the Licensee's Goods and any items of the Improvements which the Licensor requires to be removed from the Licensed Premises; and
 - (ii) unencumbered ownership shall vest in the Licensor of all items of the Improvements which the Licensor requires not to be removed from the Licensed Premises.
- (c) The Licensee must not mortgage, charge or otherwise encumber any of the Improvements.

7. Insurance

7.1 Public risk insurance

- (a) The Licensee must effect and keep current during the Licence Term, a public risk insurance policy in the names of the Licensor and the Licensee for the amount specified in **Item 3** of the Reference Schedule.
- (b) The Licensor may from time to time require the amount of such policy to be increased by such amount as may be reasonable having regard to the effect of inflation.

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- (c) The Licensee must by the Licence Commencement Date provide to the Licensor a certificate of currency in respect of the public risk insurance policy referred to in clause 7.1(a).

7.2 Licensee to maintain insurance

- (a) The Licensee must not at any time during the Licence Term do permit or suffer to be done any act matter or thing whereby any insurances in respect of the Licensed Premises may be vitiated or rendered void or voidable or (except with the approval in writing of the Licensor) whereby the rate of premium on any such insurance may be liable to be increased.
- (b) The Licensee must from time to time as and when required by notice in writing from the Licensor, immediately pay all extra premiums of insurance on the Licensed Premises as may be required on account of extra risk caused by the use to which the Licensed Premises are put by the Licensee or by the bringing or keeping on the Licensed Premises of any materials or substances.
- (c) All policies of insurance liable or required to be effected by the Licensee under this deed whether in respect of the property or risk of the Licensor or the Licensee must be taken out with an insurance office or company approved in writing by the Licensor.
- (d) In addition to its obligations under clause 7.1(c), the Licensee must in respect of any other policy of insurance to be effected by the Licensee under this deed, if so required produce to the Licensor a certificate of currency within twenty-four (24) hours of receipt of a request for the same from the Licensor.

7.3 Structure, building and the Licensee's contents

The Licensor shall not be liable for any damage to or loss or theft of any:

- (a) structure or building erected by the Licensee upon the Licensed Premises; or
- (b) plant, equipment and chattels kept or left on the Licensed Premises.

8. Release and indemnity

8.1 Release of Licensor

The Licensee agrees to occupy use and keep the Licensed Premises at the risk of the Licensee and the Licensee releases to the full extent permitted by law, Licensor and its agents servants contractors and employees, in the absence of any negligence or wilful act or breach of this deed on their part, from all claims and demands of every kind in respect of any accident, damage, death or injury resulting from such use by the Licensee, its servants, agents, contractors or invitees occurring in, on or about the Licensed Premises and the Licensee agrees that in the absence of any such negligence or wilful act or breach of this deed, the Licensor and its agents, servants, contractors and employees must have no responsibility or liability for any loss, damage, death or

injury suffered by the Licensee (whether to or in respect of the Licensee's person or property or the business conducted by the Licensee) or any of the Licensee's servants, agents, contractors or invitees as a result of any breakage leakage accident or event in, on or about the Licensed Premises.

8.2 Indemnity of Licensor

The Licensee indemnifies the Licensor and keep them fully indemnified from and against all actions claims demands losses damages costs and expenses for which the Licensor will or may be or become liable in respect of or arising from:

- (a) the negligent use misuse or abuse by the Licensee or any servant agent contractor customer or invitee of or any other person claiming through or under the Licensee of the water gas electricity oil lighting and other services and facilities of the Licensed Premises;
- (b) loss damage to any property or death or injury at any time in or about the Licensed Premises arising from the overflow of water supply or rain water which may leak into or issue from any part of the Licensed Premises or any pipes attached to or connected with the same;
- (c) loss damage death or injury from any cause whatsoever to property or person caused or contributed to by the use of the Licensed Premises by the Licensee or any servant agent contractor or invitee of the Licensee or other person acting on behalf of the Licensee; and
- (d) loss damage death or injury from any cause whatsoever to property or person in, on or about the Licensed Premises occasioned or contributed to by any act omission neglect breach or default of the Licensee or any servant agent customer contractor sub contractor or invitee of the Licensee or other person acting on behalf of the Licensee.

8.3 Failure of services

The Licensor will be under no liability for any loss injury or damage sustained by the Licensee or any other person at any time as a result of or arising in any way out of the failure of the electricity or water supply or any other services or facilities provided by the Licensor or enjoyed by the Licensee in conjunction with the Licensed Premises.

9. Licensor's covenant

9.1 Quiet enjoyment

Subject to this deed and to the Licensee duly and punctually observing and performing the covenants obligations and provisions in this deed on the part of the Licensee to be observed and performed, the Licensee may peaceably possess and enjoy the Licensed Premises during the Licence Term without any interruption or disturbance from the Licensor or any other person or persons lawfully claiming by from or under the Licensor.

10. Default, termination, abatement of Licence fee, etc

10.1 Licensor's powers on default

- (a) Subject to clause 10.2, if:
- (i) any monies payable under this deed which have not been paid by the due date remain unpaid for one (1) month after the date when the Licensor has given to the Licensee notice in writing that such other monies are outstanding;
 - (ii) the Licensee has its property seized under any distress or execution or makes any arrangement with or assignment for the benefit of creditors or makes or attempts to make any composition or arrangement for the benefit of creditors;
 - (iii) the interest of the Licensee in the Licensed Premises be attached or taken into execution or upon any legal process;
 - (iv) the Licensee being a company, an order is made or a resolution is effectively passed for the winding up of the Licensee (other than for the purposes of amalgamation or reconstruction) or the Licensee ceases or threatens to cease to carry on business; or
 - (v) the Licensee fails to perform or observe any one or more of the covenants or provisions on the part of the Licensee expressed or implied in this deed unless the non performance or non observance has been waived or excused by the Licensor in writing and such failure continues for one (1) month after the Licensee has been given notice in writing to cease the said non performance or non observance
- the Licensor may at any time thereafter but without prejudice to any claim which the Licensor may have against the Licensee in respect of any breach of the covenants and provisions in this deed on the part of the Licensee to be observed and performed re enter and repossess (by force if necessary) and enjoy the Licensed Premises as of its former estate (anything herein contained to the contrary notwithstanding) and thereupon the Licence shall absolutely determine.
- (b) Acceptance by the Licensor of any monies after default by the Licensee under this deed, shall be without prejudice to the exercise by the Licensor of the power conferred upon it by clause 10.1 or any other right power or privilege of the Licensor under this deed and must not operate as an election by the Licensor either to exercise or not to exercise any such rights powers or privileges.

10.2 Essential terms

The following covenants by the Licensee are essential terms of this deed, namely:

- (a) the covenant as to permitted use under clause 4.1;

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- (b) the covenant as to assignment and sub-licensing under clause 5.1;
- (c) the covenants as to repairs and maintenance and alterations under clause 6.1 and additions under clause 6.2 inclusive; and
- (d) the covenants as to insurance under clauses 7.1 to 7.3 inclusive.

Omission of a clause from the above list will not imply that it is not an essential term of this deed.

10.3 Removal of Licensee's property on termination

Subject to clause 6.7, upon termination of the Licence for any reason whatsoever, the Licensee must immediately remove all its goods, chattels and effects from the Licensed Premises and in the event of the Licensee failing to do so the Licensor may at the cost and expense of the Licensee remove such goods, chattels and effects in such manner and to such place as it may think fit and the Licensor will not be responsible for any loss or damage to such goods, chattels and effects caused by such removal and all costs and expenses incurred by the Licensor thereby will be recoverable from the Licensee. The Licensor will also be entitled upon expiration of the Licence Term or prior termination of the Licence to sell or otherwise dispose of any goods, chattels and effects which the Licensee has not removed from the Licensed Premises by auction sale or by private treaty and the Licensor will be entitled to apply the net proceeds of any such sale to reduction of any sums owing by the Licensee to the Licensor under this deed. Any balance of such proceeds not applied as aforesaid will be accounted for by the Licensor to the Licensee. The Licensee hereby grants the Licensor full power and authority to deal with the said goods, chattels and effects in any manner authorised by this clause and appoints the Licensor the attorney of the Licensee for such purpose. The Licensee further agrees that the Licensor will not be under any obligation to insure any such goods, chattels and effects or to otherwise ensure their safety.

10.4 Condition of Licenced Premises on termination

The Licensee must immediately upon determination of the Licence, peaceably surrender and yield up to the Licensor the Licensed Premises in good and substantial repair order and condition in every case having regard to the age of what is being surrendered or yielded up and their condition at the Licence Commencement Date in all respects as nearly as possible in the same condition as at the time of the erection or installation of the same or the Licence Commencement Date whichever is the later.

10.5 Resumption

If the whole of the Licensed Premises is resumed taken or acquired by any statutory authority competent in that regard the Licence will immediately cease and determine but without prejudice to any of the rights or remedies of the Licensor or the Licensee in respect of any antecedent breach of covenant on the part of the Licensee or the Licensor.

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10.6 Termination of Licence owing to damage to Licensed Premises

- (a) If the Licensed Premises or any part thereof which the Licensee is entitled under this deed to occupy is destroyed or damaged by fire or other risk to such an extent that the Licensed Premises are inaccessible or are wholly or partly unfit for occupation and use by the Licensee, then, until such time as the Licensed Premises are again rendered fit for occupation and use the payments in respect of outgoings payable by the Licensee under this deed or a fair proportion thereof having regard to the nature and extent of the damage sustained will be suspended.
- (b) If the Licensor notifies the Licensee in writing that the Licensor considers that damage to the Licensed Premises is such as to make repair of the damage impracticable or undesirable, the Licensor or the Licensee may terminate the Licence by giving not less than seven (7) days' notice in writing to the other of them and no compensation is payable in respect of that termination.
- (c) If the Licensor fails to repair the damage within a reasonable time after the Licensee requests the Licensor in writing to do so, the Licensee may terminate the Licence by giving not less than seven (7) days' notice in writing of termination to the Licensor.

11. General

11.1 Exclusion of warranties

The Licensee acknowledges and declares that no promise representation warranty or undertaking has been given by or on behalf of the Licensor in respect of the suitability of the Licensed Premises for any purpose or any business to be carried on therein or the fittings finish facilities and amenities of the Licensed Premises or of any land or premises giving access to the same.

11.2 Whole agreement

Without prejudice to the provisions of and except as provided in this deed, the covenants and provisions contained in this deed expressly or by statutory implication cover and comprise the whole of the agreement between the parties and no further or other covenants or provisions whether in respect of the Licensed Premises or otherwise will be deemed to be implied in this deed or to arise between the parties to this deed by way of collateral or other agreement or by reason of any action, omission, promise representation warranty or undertaking given or made by any party to this deed to another on or prior to the execution of this deed and the existence of any such implication or collateral or other agreement is hereby negated.

11.3 Effect of waivers

No waiver by the Licensor of any one breach of any covenant obligation or provision contained or implied in this deed will operate as a waiver of another breach of the same or of any other covenant obligation or provision contained or implied in this deed.

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11.4 Legal costs and expenses

- (a) Each party must pay their own legal costs of or incidental to the preparation, negotiation, execution and stamping of this deed and of any application for the consent of the Licensor under this deed.
- (b) The Licensee must pay the Licensor's reasonable legal costs (assessed on an indemnity basis) and all duties fees charges and expenses of or incidental to any and every breach or default by the Licensee hereunder and in or incidental to the exercise or attempted exercise of any right power privilege authority or remedy of the Licensor under or by virtue of this deed and the fees of all professional consultants properly incurred by the Licensor in consequence of or in connection with any breach or default by the Licensee under this deed.

11.5 Service of notices

Every notice or other communication of any nature whatsoever required to be served, given or made under or arising from this deed:

- (a) must be in writing in order to be valid;
- (b) will be sufficient if executed by the party giving, serving or making the same or on its behalf by any attorney, director, secretary, other duly authorised officer or solicitor of such party;
- (c) will be deemed to have been duly served, given or made in relation to a party if it is delivered or posted by pre paid post to the address, or sent by facsimile to the facsimile number of that party or sent to the email address of that party. The address of a party shall be that party's last known usual place of residence or place of business or, in the case of the Licensee, the Licensed Premises. The facsimile number of a party shall be the number of the facsimile service connected to that party's last known usual place of residence or place of business; and
- (d) will be deemed to be given, served or made:
 - (i) (in the case of prepaid post) on the third business day after the date of posting;
 - (ii) (in the case of facsimile) on receipt of a transmission report confirming successful transmission;
 - (iii) (in the case of email) four (4) days after sending unless the sender receives a delivery pending or non-delivery report and on receipt of a transmission report confirming successful transmission; and
 - (iv) (in the case of delivery by hand) on delivery.

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11.6 Licensee's obligations to be performed at Licensee's risk and expense

Whenever the Licensee is obliged or required under this deed to do or effect any act matter or thing then the doing of such act matter or thing will, unless this deed otherwise provides, be at the sole risk and expense of the Licensee.

12. Goods and services tax

12.1 Except as otherwise provided by this clause, the Licensee agrees that all money payable or consideration to be given by the Licensee to the Licensor under this Licence is exclusive of Goods and Services Tax (GST).

12.2 Liability for any GST payable in respect of any taxable supply under this deed is additional to all other money payable or consideration to be given by the Licensee to the Licensor under this deed.

12.3 The Licensee must without deduction or set off pay to the Licensor any GST payable in respect of any taxable supply under this deed.

12.4 The amount of GST payable by the Licensee will be:

- (a) calculated by multiplying the amount of consideration payable (or to be provided) for the relevant supply by the prevailing GST rate; and
- (b) payable on the earlier to occur of the time at which:
 - (i) the other moneys payable or consideration is to be given under this deed in respect of that supply are payable; or
 - (ii) any GST in respect of that supply is payable.

12.5 If this deed requires the Licensee to pay, reimburse or contribute to an amount paid or payable by the Licensor in respect of an acquisition from a third party for which the Licensor is entitled to claim an input tax credit, the amount required to be paid, reimbursed or contributed by the Licensee will only be the value of the acquisition by the Licensor plus, if the Licensor's recovery from the Licensee is a taxable supply, any GST payable under this clause.

12.6 The Licensor will issue a tax invoice in respect of any taxable supply under this deed, which will enable the Licensee, if permitted by the A New Tax System (Goods and Services Tax) Act 1999 (the Act), to claim a credit for GST paid by the Licensee.

12.7 For the purpose of this clause 12 any terms used in it which have meanings under the Act, will have the meanings given by the Act.

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13. Consent authority

- 13.1 The Licensee acknowledges and agrees with the Licensor that the Licensor is the appropriate consent authority in respect of any development application lodged by or on behalf of the Licensee in respect of the Licensee's use of the Licensed Premises.
- 13.2 Nothing in this deed shall be read or construed as fettering the Licensor's rights, powers and discretions as such consent authority.

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Reference Schedule

Item 1	Licence Commencement Date	1 March 2019
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Item 2	Permitted Use (clause 4.1)	As a non-profit community garden operated by the community and used for the production of produce for the personal use of its members through allotments or shared plots and for demonstration of gardening or other environmental activities being undertaken and to encourage the involvement of schools, youth groups and citizens in gardening activities.
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Item 3	Public Risk Insurance (clause 7.1(a))	Not less than ten million dollars (\$10,000,000.00) or such other amount reasonably required by the Licensor in respect of any single accident or event
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Signing page

Executed as deed

Signed for and on behalf of **Woollahra Municipal Council** by the Director, Technical Services pursuant to the Delegation of Authority from the General Manager dated ~~23 July 2013~~ in the presence of: *14 June 2018* [REDACTED]

[REDACTED]

Director Technical Services

Tom O'HANLON

Full name (print)

Signed, sealed and delivered for and on behalf of **Rose Bay Community Garden Incorporated (Incorporation No: INC 9897184)** by authority of the Committee in the presence of:

[Signature]

Signature of Committee Member

[REDACTED]

Full name (print)

[Signature]

Signature of Committee Member

[REDACTED]

Full name (print)

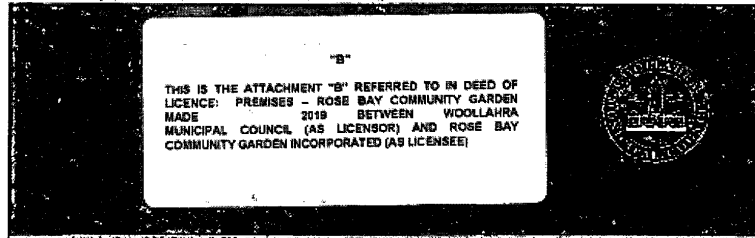
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"A"

THIS IS THE ATTACHMENT "A" REFERRED TO IN DEED OF
LICENCE: PREMISES - ROSE BAY COMMUNITY GARDEN
MADE 2019 BETWEEN WOOLLAHRA
MUNICIPAL COUNCIL (AS LICENSOR) AND ROSE BAY
COMMUNITY GARDEN INCORPORATED (AS LICENSEE)



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Community Gardens Policy

Adoption Date:	12 December 2011 by Council Resolution
Review Date:	12 December 2019
Version:	1
Division/Department:	Technical Services/Open Space & Trees
Responsible Officer:	Environmental Education Officer
HPE CM Record Number:	18/128538

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Community Gardens Policy

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Community Gardens Policy

What is a Community Garden?

A 'community garden' is defined as a parcel of public open space operated by the community (with Council assistance) where the site is used for:

- The production of produce for the personal use of its members through allotments or shared plots, and
- Demonstration gardening, or where other environmental activities are undertaken, also encouraging the involvement of schools, youth groups and citizens in gardening activities.

Community gardens are not-for-profit, and can provide for a wide range of environmental, social and economic benefits.

Different Types of Community Gardens

There are different forms a community garden can take, they are:

Community Garden - a mixture of allotments for each member and some shared areas.

Verge Garden - garden beds that are established on the nature strip, or road reserve that are communally managed by a group of local residences and decisions are made jointly.

School Kitchen Garden - a community garden in a school, in which local residents outside of the school community can join and manage the garden in partnership with the school. Gardens may include individual plots for residents and communal garden beds that the school can manage and use for lessons on cooking, nutrition and the environment and provide produce for the school canteen. Council recognises that many schools in our local area have established productive and thriving school kitchen gardens. Many of these are developed like a community garden, in that the whole school community (teachers, parents and students) are involved in its development.

Note: Should you have a connection to a school in the area, you may wish to contact them directly to volunteer to help with their garden, or to help set one up. However, the approval of outside involvement is at the discretion of each school and is not the role nor responsibility of Council.

Community Gardens Policy

Our Policy

Woollahra Council recognises community gardening as a valuable recreational activity that contributes to health and well-being, positive social interaction, community development, environmental education and sustainable principles, protection and use of open space.

Objectives

The objectives of this policy include:

- To recognise the need and benefits of community gardens.
- To establish community gardens throughout Woollahra on public open space, where feasible and appropriate.
- To recognise the value of community gardens, as a public amenity.
- To ensure that all community gardens are managed in an efficient manner and maintained to an acceptable standard.
- To ensure all community gardens are chemical free, water efficient and sustainable.
- To acquire, share and increase knowledge and practice of organic gardening with various educational institutions and the local community.
- To offer a suitable site for Council environmental workshops and educational days.
- To standardise processes and procedures for the development of the community gardens.
- To clarify the rights and responsibilities of all stakeholders involved in community garden projects with reference to public liability, maintenance, safety and access.

Woollahra 2025 – Woollahra Community Strategic Plan 2010 to 2025

This policy has been prepared in accordance with the following strategies from the Woollahra Council Delivery Program 2009 - 2013:

Goal 5: Liveable places from the Woollahra Community Strategic Plan, strategies include:

- Enhance local community, cultural and recreation facilities to become more attractive, integrated and accessible.
- Provide attractive, accessible, connected and safe parks, sportsgrounds, foreshore areas and other public spaces.

Goal 8: Sustainable use of resources:

- Provide programs and projects to reduce local greenhouse gas emissions and ecological footprint.

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Community Gardens Policy

Council Support

Woollahra Council supports community gardens by working with community partners, in assisting to identify and contribute to site development activities. Subject to available resources Council will:

- Promote and raise awareness of community gardening
- Provide information to the public about the operation of community gardens
- Assist interested groups in searching for suitable public land for the development of community gardens
- Assist with site development such as site planning and design, surveying, and site preparation
- Provide in-kind support where feasible (i.e. water options, mulch etc.)
- Host workshops on practical skills, and group management (i.e. governance); and
- Provide grant funding opportunities and advice.

Community Gardens Policy

Establishment of Community Gardens

Woollahra Council supports the development of community gardens, particularly in high density areas in the Municipality. Woollahra Council will assist in locating new garden sites, where available land exists, where neighbours are supportive, and where a community group demonstrates interest and commitment.

For Council to consider supporting the development of any new community garden, applicants will need to address the site selection criteria outlined below. The first step is to establish a community garden group and conduct a site assessment of the potential site. If the site meets the criteria, applicants should then discuss the proposal with Council and go through the potential issues.

1 Site Selection Criteria – Community Gardens

Location

- Consistency with relevant plans for open space
- Informed and supportive neighbours
- Proximity to high density living areas
- Close proximity to supporting infrastructure and services, such as power and water
- An area of approximately 750m²

Usability of site

- The site should have no major safety or health concerns
- Good passive surveillance
- Sun exposure
- Soil quality and drainage

Accessibility

- Should be accessible for a range of user groups
- Accessibility to public transport (where possible)
- Vehicle access

Multiple Use

- Community garden should be integrated without adversely conflicting with other land uses
- Community gardens can still be used as information sites for Council and School Workshops.

Upon Council review of a proposal and meeting the relevant criteria, a report to Council will be presented recommending that the proposal be exhibited to the public for comment. A follow up report will be submitted to Council for its consideration.

Community Gardens Policy

2 Site Selection Criteria – Community Verge Gardens

Establishing verge gardens requires special consideration by Council to ensure that accessibility on footpaths, traffic and road conditions are not affected and that other environmental issues such as stormwater capture and street trees are considered in the design of new garden beds.

Applicants wanting to establish a new community garden on the nature strip will need to first speak to Council to see if their street is suitable for the inclusion of garden beds. Applicants will also need to form a community garden group and get support from neighbours.

Location

- Woollahra Council is the owner or are trust managers of the land
- Land is un-utilised or under utilised
- Community support to implement and maintain the verge garden

Usability of site

- The site should have no major safety, health or traffic concerns
- Good passive surveillance
- Sun exposure
- Soil quality and drainage

Accessibility

- Should be accessible for a range of user groups
- Access ways to be maintained at all times

Multiple Use

- Community verge gardens should be integrated without adversely conflicting with other land uses
- Community verge gardens can still be used as information sites for Council and School Workshops.

Community verge gardens where available land exists, where neighbours are supportive, and where a community group demonstrates interest and commitment will be favoured.

Where community verge gardens are proposed to be created close to adjoining residents, Council will consult with the affected residents and, where objections are raised, report on the matter to Council for its consideration.

Community Gardens Policy

Community Management of Gardens

Community gardens should be managed and implemented by the community, however this must be undertaken in such a way that the needs of all stakeholders are taken into account.

Incorporation of the Garden Group

The Council encourages community garden groups to have a clear and identified legal structure. Garden groups can apply to the NSW Office of Fair Trading to become Incorporated Associations. This arrangement affords the group some flexibility in the management of funds and enables them to open a bank account, obtain public liability insurance cover and apply for government grants.

Incorporation as an association requires groups to establish a management committee with annually elected office bearers and to commit to regular meetings. This can be beneficial for the Garden as it maintains a structure that can address management issues. Having a committee also helps share the tasks of garden management and avoids excessive responsibility being placed on a few people or the garden management becoming dominated by one person.

Insurance and Risk Management

Community Gardens will be licensed to an incorporated community group with an approved Public Liability Cover of \$10 million that indemnifies Council. Each garden group has a duty of care to the community who access the garden areas. This community group will be required to manage safe access in and around the site and, if necessary allocation of garden plots. Management of the site will also need to follow Council's direction in the issue of Environmental Sustainable Development and encourage all members, through its functions and activities, to act more sustainably.

The incorporated community group will liaise with Council staff in regards to any new infrastructure or projects planned for the garden. Prior to erection / installation of any infrastructure, written approval from Council or, where required, Development Consent may be required.

User Agreement

A licence for use agreement must be signed between Woollahra Council and the organisation for the purpose of developing and maintaining a community garden. The licence agreement would also contain conditions for the use of the site.

At the initial set up of a new garden, a license will be granted for 12 months with an option for a 3 year agreement after this period. All community gardens will operate on a not-for-profit basis.

Community Gardens Policy

A licence or other agreement with the group could be revoked or not renewed if:

- The group disbands or ceases to function due to internal conflict;
- The garden is not maintained or becomes unsafe for public access;
- Appropriate insurance cover is not maintained.

The group will be required to report annually to Council on the function of the garden and how they are meeting Council objectives.

Council retains the capacity to use the garden as a demonstration site for community education activities such as tours and workshops. The Council will work with the garden group to ensure that organised activities do not conflict inappropriately with other garden uses, such as regular working bees.

Information regarding community gardens will be advertised through Council's website and publications. It will also be advertised to the community at Council's community centres and during Council promotions and events.

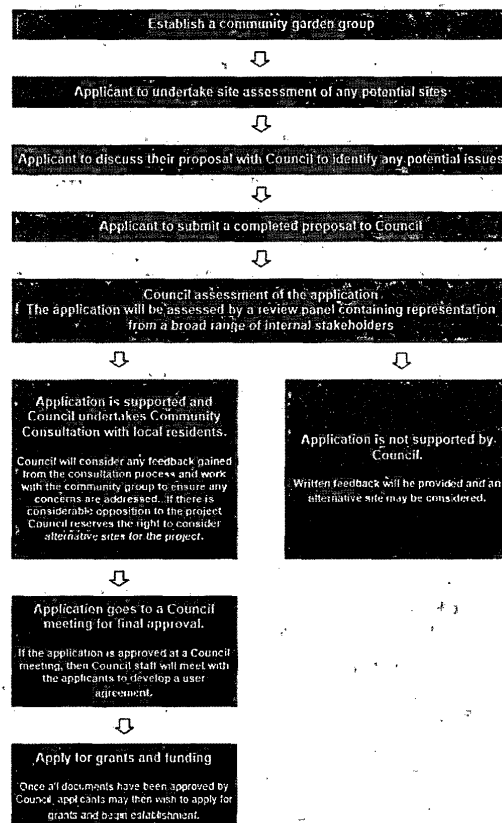
The non-profit organisation agrees to develop, manage and operate the community garden according to a user agreement with their members, which specifies the terms of use, management responsibilities, user fees and access procedures, which include the following:

- Residents of the Woollahra Municipality will be given priority for membership, however, it will be open to all on a first served basis.
- The association may set rules with the assistance of the Office of Fair Trading. Rules must not be inconsistent with Council's Community Garden Policy.
- A list of by-laws are developed by the association and must comply with Section 11 of the Associations Incorporation Act 1984 approved by Council (Staff). Members are required to sign a contract indicating their compliance.
- Membership and use of the Site can be revoked for non-compliance with the organisations by-laws, the applicable user agreement or this policy.
- Gardeners need to commit to work within the communal garden and may need to undertake various courses before being allocated an individual allotment. Gardeners must be nominated by two current members.
- Allotment gardens must be maintained to a minimum standard of aesthetics and orderliness. Year-round produce is encouraged.
- Produce is to be organically grown, chemical free, and not to be sold for private commercial profit. Funds from selling produce must be invested in the garden. Excess produce can be donated.
- The organisation is to have its own Public Liability Insurance (becoming a member of a Landcare group can reduce the cost of the PLI).
- Allow monitoring and review as stipulated by the agreement.
- Allow the provisional inclusion of poultry/ livestock within community gardens that are deemed appropriate.
- Any requests for poultry/ livestock be approved by Council staff and assessed regularly.
- Any approval granted will be subject to a trial period with a review to be undertaken twelve months from commencement.

Community Gardens Policy

Procedure for Implementation

Once a preferred site has been established, applicants will need to submit a proposal to Council. If the proposal is supported, then Council will organise community consultation with local residents and work with the community garden group to address any concerns.



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Community Gardens Policy

Want to Know More?

For further information on this policy, contact our Open Space and Trees Department.
Advice is available from Councils:

- Environmental Education Officer on 9391 7095

Version: Final

Approval date: 12 December 2011

This part of our policy provides an overall summary of the intention and reason for a policy. Specific implementation procedures are available on request. The General Manager has approved this policy and the attached procedures.

Policy Amendments

Date	Responsible Officer	Description

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"C"

THIS IS THE ATTACHMENT "C" REFERRED TO IN DEED OF
LICENCE: PREMISES - ROSE BAY COMMUNITY GARDEN
MADE 2019 BETWEEN WOOLLAHRA
MUNICIPAL COUNCIL (AS LICENSOR) AND ROSE BAY
COMMUNITY GARDEN INCORPORATED (AS LICENSEE)

ROSE BAY COMMUNITY GARDEN INCORPORATED
CONSTITUTION

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Part 1 Preliminary

1 Definitions

(1) In this constitution:

Commissioner means the Commissioner of the Office of Fair Trading.

ordinary member means a member of the committee who is not an office-bearer of the Association, as referred to in rule 16(2).

secretary means:

- (a) the person holding office under this constitution as secretary of the Association.

Special general meeting means a general meeting of the Association other than an annual general meeting.

the Act means the *Associations Incorporation Act 1984*.

the regulation means the *Associations Incorporation Regulation 1999*.

(2) In this constitution:

- (a) a reference to a function includes a reference to a power, authority and duty, and

- (b) a reference to the exercise of a function includes, if the function is a duty, a reference to the performance of the duty.

(3) The provisions of the *Interpretation Act 1987* apply to and in respect of this constitution in the same manner as those provisions would so apply if this constitution were an instrument made under the Act.

2 Name

(1) The name of the Association shall be "Rose Bay Community Garden Incorporated" (referred to in this constitution as the "Association").

3 Objectives & values

(1) The objectives of the Association are to create a beautiful garden for the local community, where people can learn, socialise and have fun.

(a) A beautiful garden built on sustainable organic principles that is in harmony with nature and neighbours, where all members:

- i. take an active interest in the aesthetics of the entire garden
- ii. maintain the site to the standard required to meet the present and future needs of the Association, members, and the local community

(b) A place to learn and share knowledge of

- i. organic gardening methods;
- ii. waste reduction;
- iii. water and solar harvesting; and
- iv. sustainable living

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- (c) A place to socialise and to have fun, where all members feel a sense of:
- i. belonging to a community
 - ii. pride in what is being created now and for the future
 - iii. ownership by the members and the community

The Association is founded on the following values:

- (1) Collaboration - We work together collaboratively to meet the garden's objectives
- (2) Respect - We treat our fellow members, the wider community, the garden and the environment with respect
- (3) Fairness - Decision making is democratic, transparent & inclusive
- (4) Community - We cooperate & manage effective relationships both within our own community and the surrounding neighbourhood e.g. Council, specialist groups, other stakeholders

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Part 2 Membership

4 Membership qualifications

A person is qualified to be a member of the Association if, but only if:

- (a) the person is a person referred to in section 15(1) (a), (b) or (c) of the Act and has not ceased to be a member of the Association at any time after incorporation of the Association under the Act,

or

- (b) the person is a natural person:

- (i) who has been nominated for membership of the Association as provided by rule 5, and

- (ii) who has been approved for membership of the Association by the committee of the Association; or

- (c) is a nominated representative of an organisation which has been approved for membership of the Association by the committee of the Association.

5 Nomination for membership

- (1) A nomination of a person for membership of the Association:

- (a) must be made by a member of the Association in writing in the form set out in Appendix 1 to this constitution, and

- (b) must be lodged with the secretary of the Association.

- (2) As soon as practicable after receiving a nomination for membership, the secretary must refer the nomination to the committee which is to determine whether to approve or to reject the nomination.

- (3) As soon as practicable after the committee makes that determination, the secretary must:

- (a) notify the nominee, in writing, that the committee approved or rejected the nomination (whichever is applicable), and

- (b) if the committee approved the nomination, request the nominee to pay (within the period of 28 days after receipt by the nominee of the notification) the sum payable under this constitution by a member as entrance fee and annual subscription.

- (4) the secretary must, on payment by the nominee of the amounts referred to in clause (3)(b) within the period referred to in that provision, enter the nominee's name in the register of members and, on the name being so entered, the nominee becomes a member of the Association.

6 Cessation of membership

A person ceases to be a member of the Association if the person:

- (a) dies, or
- (b) resigns membership, or
- (c) is expelled from the Association, or
- (d) membership fees remain unpaid for more than two (2) months after they fall due under clause 10.

7 Membership entitlements not transferable

A right, privilege or obligation which a person has by reason of being a member of the Association:

- (a) is not capable of being transferred or transmitted to another person, and
- (b) terminates on cessation of the person's membership.

8 Resignation of membership

- (1) A member of the Association is not entitled to resign that membership except in accordance with this rule.
- (2) A member of the Association who has paid all amounts payable by the member to the Association in respect of the member's membership may resign from membership of the Association by first giving to the secretary written notice of at least one month (or such other period as the committee may determine) of the member's intention to resign and, on the expiration of the period of notice, the member ceases to be a member.
- (3) If a member of the Association ceases to be a member under clause (2), and in every other case where a member ceases to hold membership, the secretary must make an appropriate entry in the register of members recording the date on which the member ceased to be a member.

9 Register of members

- (1) The secretary of the Association must establish and maintain a register of members of the Association specifying the name and address of each person who is a member of the Association together with the date on which the person became a member.
- (2) The register of members must be kept at the principal place of administration of the Association and must be open for inspection, free of charge, by any member of the Association at any reasonable hour.
- (3) A member of the Association may obtain a copy of any part of the register on payment of a fee of \$1 for each page copied or, if some other amount is determined by the committee, that other amount.

10 Fees and subscriptions

- (1) A member of the Association must, on admission to membership, pay to the Association the annual membership fee.
- (2) The initial membership fee shall be determined by the Interim Committee and confirmed at the first Annual General Meeting.
- (3) The annual membership fee shall be determined on an annual basis and ratified by the Annual General Meeting each year.
- (4) All membership and other fees must be paid within twenty-eight (28) days of becoming due which will be
 - (a) except as provided by paragraph (b), before 1 July in each calendar year, or
 - (b) if the member becomes a member on or after 1 July in any calendar year – on becoming a member and before 1 July in each succeeding calendar year.
- (5) A member is responsible for ensuring he or she remains a financial member and for paying all due fees as required.

11 Members' liabilities

The liability of a member of the Association to contribute towards the payment of the debts and liabilities of the Association or the costs, charges and expenses of the winding up of the Association is limited to the amount, if any, unpaid by the member in respect of membership of the Association as required by rule 10.

12 Resolution of internal disputes

- (1) Disputes between members (in their capacity as members) of the Association, and disputes between members and the Association, are to be referred to a community justice centre for mediation in accordance with the *Community Justice Centres Act 1983*.
- (2) At least 7 days before a mediation session is to commence, the parties are to exchange statements of the issues that are in dispute between them and supply copies to the mediator.

13 Disciplining of members

- (1) A complaint may be made to the committee by any person that a member of the Association:
 - (a) has persistently refused or neglected to comply with a provision or provisions of this constitution, or
 - (b) has persistently and wilfully acted in a manner prejudicial to the interests of the Association.

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- (2) On receiving such a complaint, the committee:
- (a) must cause notice of the complaint to be served on the member concerned; and
 - (b) must give the member at least 14 days from the time the notice is served within which to make submissions to the committee in connection with the complaint, and
 - (c) must take into consideration any submissions made by the member in connection with the complaint.
- (3) The committee may, by resolution, expel the member from the Association or suspend the member from membership of the Association if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved.
- (4) If the committee expels or suspends a member, the secretary must, within 7 days after the action is taken, cause written notice to be given to the member of the action taken, of the reasons given by the committee for having taken that action and of the member's right of appeal under rule 14.
- (5) The expulsion or suspension does not take effect:
- (a) until the expiration of the period within which the member is entitled to appeal against the resolution concerned, or
 - (b) if within that period the member exercises the right of appeal, unless and until the Association confirms the resolution under rule 14((5)), whichever is the latter.

14 Right of appeal of disciplined member

- (1) A member may appeal to the Association in general meeting against a resolution of the committee under rule 11, within 7 days after notice of the resolution is served on the member, by lodging with the secretary a notice to that effect.
- (2) The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- (3) On receipt of a notice from a member under clause (1), the secretary must notify the committee which is to convene a general meeting of the Association to be held within 28 days after the date on which the secretary received the notice.
- (4) At a general meeting of the Association convened under clause (3):
 - (a) no business other than the question of the appeal is to be transacted, and
 - (b) the committee and the member must be given the opportunity to state their respective cases orally or in writing, or both, and
 - (c) the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (5) If at the general meeting the Association passes a special resolution in favour of the confirmation of the resolution, the resolution is confirmed.

Part 3 The committee

15 Powers of the committee

The committee is to be called the committee of management of the Association and, subject to the Act, the Regulation and this constitution and to any resolution passed by the Association in general meeting:

- (a) is to control and manage the affairs of the Association, and
- (b) may exercise all such functions as may be exercised by the Association, other than those functions that are required by this constitution to be exercised by a general meeting of members of the Association, and
- (c) has power to perform all such acts and do all such things as appear to the committee to be necessary or desirable for the proper management of the affairs of the Association.

16 Constitution and membership

- (1) Subject in the case of the first members of the committee to section 21 of the Act, the committee is to consist of:

- (a) the office-bearers of the Association, and
- (b) 2 ordinary members,

each of whom is to be elected at the annual general meeting of the Association under rule 17.

- (c) In addition to the members of the committee of management elected by the membership there may be a further member of the committee of management being a serving Woollahra Councillor as appointed by the Mayor of Woollahra Council. Nothing in this rule requires such a member to be appointed by the Mayor of Woollahra.

- (2) The office-bearers of the Association are to be:

- (a) the president
- (b) the vice-president
- (c) the treasurer, and
- (d) the secretary

- (3) Each member of the committee is, subject to this constitution, to hold office until the conclusion of the annual general meeting following the date of the member's election, but is eligible for re-election.

- (4) In the event of a casual vacancy occurring in the membership of the committee, the committee may appoint a member of the Association to fill the vacancy and the member so appointed is to hold office, subject to this constitution, until the conclusion of the annual general meeting next following the date of the appointment.

17 Election of members

- (1) Nominations of candidates for election as office-bearers of the Association or as ordinary members of the committee:
 - (a) must be made in writing, signed by 2 members of the Association and accompanied by the written consent of the candidate (which may be endorsed on the form of the nomination), and
 - (b) must be delivered to the secretary of the Association at least 7 days before the date fixed for the holding of the annual general meeting at which the election is to take place.
- (2) The President may not serve for more than two consecutive terms. In addition, half of the committee must rotate off at each election. This is to encourage new ideas, continually rejuvenate the committee, and prevent 'ownership' of the garden by any one person.
- (3) If insufficient nominations are received to fill all vacancies on the committee, the candidates nominated are taken to be elected and further nominations are to be received at the annual general meeting.
- (4) If insufficient further nominations are received, any vacant positions remaining on the committee are taken to be casual vacancies.
- (5) If the number of nominations received is equal to the number of vacancies to be filled, the persons nominated are taken to be elected.
- (6) If the number of nominations received exceeds the number of vacancies to be filled, a ballot is to be held.
- (7) The ballot for the election of office-bearers and ordinary members of the committee is to be conducted at the annual general meeting in such usual and proper manner as the committee may direct.

18 Secretary

- (1) the secretary of the Association must, as soon as practicable after being appointed as secretary, lodge notice with the Association of his or her address.
- (2) It is the duty of the secretary to keep minutes of:
 - (a) all appointments of office-bearers and members of the committee,
 - (b) the names of members of the committee present at a committee meeting or a general meeting, and
 - (c) all proceedings at committee meetings and general meetings.
- (3) Minutes of proceedings at a meeting must be signed by the chairperson of the meeting or by the chairperson of the next succeeding meeting.

19 Treasurer

It is the duty of the treasurer of the Association to ensure:

- (a) that all money due to the Association is collected and received and that all payments authorised by the Association are made, and
- (b) that correct books and accounts are kept showing the financial affairs of the Association, including full details of all receipts and expenditure connected with the activities of the Association.

20 Casual vacancies

For the purposes of this constitution, a casual vacancy in the office of a member of the committee occurs if the member:

- (a) dies, or
- (b) ceases to be a member of the Association, or
- (c) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth, or
- (d) resigns office by notice in writing given to the secretary, or
- (e) is removed from office under rule 21, or
- (f) becomes a mentally incapacitated person, or
- (g) is absent without the consent of the committee from all meetings of the committee held during a period of 6 months.

21 Removal of member

- (1) The Association in general meeting may by resolution remove any member of the committee from the office of member before the expiration of the member's term of office and may by resolution appoint another person to hold office until the expiration of the term of office of the member so removed.
- (2) If a member of the committee to whom a proposed resolution referred to in clause (1) relates makes representations in writing to the secretary or president (not exceeding a reasonable length) and requests that the representation be notified to the members of the Association, the secretary or the president may send a copy of the representations to each member of the Association or, if the representations are not so sent, the member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

22 Meetings and quorum

- (1) The committee must meet at least 3 times in each period of 12 months at such place and time as the committee may determine.
- (2) Additional meetings of the committee may be convened by the president or by any member of the committee.
- (3) Oral or written notice of a meeting of the committee must be given by the secretary to each member of the committee at least 48 hours (or such other period as may be unanimously agreed on by the members of the committee) before the time appointed for the holding of the meeting.
- (4) Notice of a meeting given under clause (3) must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the committee members present at the meeting unanimously agree to treat as urgent business.
- (5) Any 3 members of the committee constitute a quorum for the transaction of the business of a meeting of the committee.
- (6) No business is to be transacted by the committee unless a quorum is present and if, within half an hour of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.
- (7) If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be dissolved.
- (8) At a meeting of the committee:
 - (a) the president or, in the president's absence, the vice-president is to preside, or
 - (b) if the president and the vice-president are absent or unwilling to act, such one of the remaining members of the committee as may be chosen by the members present at the meeting is to preside.

23 Delegation by committee to sub-committee

- (1) The committee may, by instrument in writing, delegate to one or more sub-committees (consisting of such member or members of the Association as the committee thinks fit) the exercise of such of the functions of the committee as are specified in the instrument, other than:
 - (a) this power of delegation, and (b) a function which is a duty imposed on the committee by the Act or by any other law.
- (2) A function the exercise of which has been delegated to a sub-committee under this rule may, while the delegation remains unrevoked, be exercised from time to time by the sub-committee in accordance with the terms of the delegation.
- (3) A delegation under this section may be made subject to such conditions or limitations as to the exercise of any function, or as to time or circumstances, as may be specified in the instrument of delegation.
- (4) Despite any delegation under this rule, the committee may continue to exercise any function delegated.
- (5) Any act or thing done or suffered by a sub-committee acting in the exercise of a delegation under this rule has the same force and effect as it would have if it had been done or suffered by the committee.
- (6) The committee may, by instrument in writing, revoke wholly or in part any delegation under this rule.
- (7) A sub-committee may meet and adjourn, as it thinks proper.

24 Voting and decisions

- (1) Questions arising at a meeting of the committee or of any sub-committee appointed by the committee are to be determined by a majority of the votes of members of the committee or sub-committee present at the meeting.
- (2) Each member present at a meeting of the committee or of any sub-committee appointed by the committee (including the person presiding at the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the person presiding may exercise a second or casting vote.
- (3) Subject to rule 22(5), the committee may act despite any vacancy on the committee.
- (4) Any act or thing done or suffered, or purporting to have been done or suffered, by the committee or by a sub-committee appointed by the committee, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the committee or sub-committee.

Part 4 General meeting

25 Annual general meetings – holding of

- (1) With the exception of the first annual general meeting of the Association, the Association must, at least once in each calendar year and within the period of 6 months after the expiration of each financial year of the Association, convene an annual general meeting of its members.
- (2) The Association must hold its first annual general meeting:
 - (a) within the period of 18 months after its incorporation under the Act, and
 - (b) within the period of 6 months after the expiration of the first financial year of the Association.
- (3) Clauses (1) and (2) have effect subject to any extension or permission granted by the Commissioner under section 26(3) of the Act.

26 Annual general meetings – calling of and business at

- (1) The annual general meeting of the Association is, subject to the Act and to rule 25, to be convened on such date and at such place and time as the committee thinks fit.
- (2) In addition to any other business which may be transacted at an annual general meeting, the business of an annual general meeting is to include the following:
 - (a) to confirm the minutes of the last preceding annual general meeting and of any special general meeting held since that meeting,
 - (b) to receive from the committee reports on the activities of the Association during the last preceding financial year,
 - (c) to elect office-bearers of the Association and ordinary members of the committee,
 - (d) to receive and consider the statement which is required to be submitted to members under section 26(6) of the Act.
- (3) An annual general meeting must be specified as such in the notice convening it.

27 Special general meetings – calling of

- (1) The committee may, whenever it thinks fit, convene a special general meeting of the Association.
- (2) The committee must, on the requisition in writing of at least 5 per cent of the total number of members, convene a special general meeting of the Association.
- (3) A requisition of members for a special general meeting:

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- (a) must state the purpose or purposes of the meeting, and
 - (b) must be signed by the members making the requisition, and
 - (c) must be lodged with the secretary, and
 - (d) may consist of several documents in a similar form, each signed by one or more of the members making the requisition.
- (4) If the committee fails to convene a special general meeting to be held within 1 month after that date on which a requisition of members for the meeting is lodged with the secretary, any one or more of the members who made the requisition may convene a special general meeting to be held not later than 3 months after that date.
- (5) A special general meeting convened by a member or members as referred to in clause (4) must be convened as nearly as is practicable in the same manner as general meetings are convened by the committee and any member who consequently incurs expenses is entitled to be reimbursed by the Association for any expense so incurred.

28 Notice

- (1) Except if the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the Association, the secretary must, at least 14 days before the date fixed for the holding of the general meeting, give a notice to each member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- (2) If the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the Association, the secretary must, at least 21 days before the date fixed for the holding of the general meeting, cause notice to be given to each member specifying, in addition to the matter required under clause (1), the intention to propose the resolution as a special resolution.
- (3) No business other than that specified in the notice convening a general meeting is to be transacted at the meeting except, in the case of an annual general meeting, business which may be transacted under rule 26(2).
- (4) A member desiring to bring any business before a general meeting may give notice in writing of that business to the secretary who must include that business in the next notice calling a general meeting given after receipt of the notice from the member.

29 Procedures

- (1) No item of business is to be transacted at a general meeting unless a quorum of members entitled under this constitution to vote is present during the time the meeting is considering that item.
- (2) Five members present in person (being members entitled under this constitution to vote at a general meeting) constitute a quorum for the transaction of the business of a general meeting.
- (3) If within half an hour after the appointed time for the commencement of a general meeting a quorum is not present, the meeting:
 - (a) if convened on the requisition of members, is to be dissolved,
 - (b) in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to members given before the day to which the meeting is adjourned) at the same place.
- (4) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the members present (being at least 3) is to constitute a quorum.

and

30 Presiding member

- (1) The president or, in the president's absence, the vice-president, is to preside as chairperson at each general meeting of the Association.
- (2) If the president and the vice-president are absent or unwilling to act, the members present must elect one of their number to preside as chairperson at the meeting.

31 Adjournments

- (1) The chairperson of a general meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (2) If a general meeting is adjourned for 14 days or more, the secretary must give written or oral notice of the adjourned meeting to each member of the Association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- (3) Except as provided in clauses (1) and (2), notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

32 Making of decisions

- (1) A question arising at a general meeting of the Association is to be determined on a show of hands and, unless before or on the declaration of the show of hands a poll is demanded, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the Association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (2) At a general meeting of the Association, a poll may be demanded by the chairperson or by at least 3 members present in person or by proxy at the meeting.
- (3) If a poll is demanded at a general meeting, the poll must be taken;
 - (a) immediately in the case of a poll which relates to the election of the chairperson of the meeting or to the question of an adjournment, or
 - (b) in any other case, in such manner and at such time before the close of the meeting as the chairperson directs,and the resolution of the poll on the matter is taken to be the resolution of the meeting on that matter.

33 Special resolutions

A resolution of the Association is a special resolution:

- (a) if it is passed by a majority which comprises at least three-quarters of such members of the Association as, being entitled under this constitution so to do, vote in person or by proxy at a general meeting of which at least 21 days' written notice specifying the intention to propose the resolution as a special resolution was given in accordance with this constitution, or
 - (b) where it is made to appear to the Commissioner that it is not practicable for the resolution to be passed in the manner specified in paragraph (a) if the resolution is passed in a manner specified by the Commissioner.
- 34 Voting**
- (1) On any question arising at a general meeting of the Association a member has one vote only.
 - (2) All votes must be given personally or by proxy but no member may hold more than 5 proxies.
 - (3) In the case of an equality of votes on a question at a general meeting, the chairperson of the meeting is entitled to exercise a second or casting vote.
 - (4) A member or proxy is not entitled to vote at any general meeting of the Association unless all money due and payable by the member or proxy to the Association has been paid.

35 Appointment of proxies

- (1) Each member is to be entitled to appoint another member as proxy by notice given to the secretary no later than 24 hours before the time of the meeting in respect of which the proxy is appointed.
- (2) The notice appointing the proxy is to be in the form set out in Appendix 2 to this constitution.

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Part 5 Miscellaneous

36 Insurance

The Association may effect and maintain insurance.

37 Funds – source

- (1) The funds of the Association are to be derived from entrance fees and annual subscriptions of members, donations and, subject to any resolution passed by the Association in general meeting, such other sources as the committee determines.
- (2) All money received by the Association must be deposited as soon as practicable and without deduction to the credit of the Association's bank account.
- (3) The Association must, as soon as practicable after receiving any money, issue an appropriate receipt.

38 Funds – management

- (1) Subject to any resolution passed by the Association in general meeting, the funds of the Association are to be used in pursuance of the objects of the Association in such manner as the committee determines.
- (2) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any 2 members of the committee or employees of the Association, being members or employees authorised to do so by the committee.

39 Alteration of objects and constitution

The statement of objects and this constitution may be altered, rescinded or added to only by a special resolution of the Association.

40 Custody of books

Except as otherwise provided by this constitution, the secretary must keep in his or her custody or under his or her control all records, books and other documents relating to the Association.

41 Inspection of books

The records, books and other documents of the Association must be open to inspection, free of charge, by a member of the Association at any reasonable hour.

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42 Service of notices

(1) For the purpose of this constitution, a notice may be served on or given to a person:

- (a) by delivering it to the person personally, or
- (b) by sending it by pre-paid post to the address of the person, or
- (c) by sending it by facsimile transmission or some other form of electronic transmission to an address specified by the person for giving or serving the notice.

(2) For the purpose of this constitution, a notice is taken, unless the contrary is proved, to have been given or served:

- (a) in the case of a notice given or served personally, on the date on which it is received by the addressee, and
- (b) in the case of a notice sent by pre-paid post, on the date when it would have been delivered in the ordinary course of post, and
- (c) in the case of a notice sent by facsimile transmission or some other form of electronic transmission, on the date it was sent, or if the machine from which the transmission was sent produces a report indicating that the notice was sent on a later date, on that date.

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Appendix 1

(Rule 5 (1))

APPLICATION FOR MEMBERSHIP OF ASSOCIATION

..... Incorporated (incorporated under the *Associations Incorporation Act 1984*).

I.....
(full name of applicant)

of.....
(address)

.....hereby apply to become a
(occupation)

member of the above-named incorporated Association. In the event of my admission as a member, I agree to be bound by the constitution and any regulations of the Association for the time being in force.

.....
Signature of applicant

Date.....

I..... a member of the Association,

(full name)

nominate the applicant, who is personally known to me, for membership of the Association.

.....
Signature of proposer

Date.....

I..... a member of the Association,

(full name)

second the nomination of the applicant, who is personally known to me, for membership of the Association.

.....
Signature of seconder

Date.....

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Appendix 2

(Rule 5 (1))

FORM OF APPOINTMENT OF PROXY

I, of
(full name) (address)
being a member of
(name of incorporated Association)
hereby appoint of
(full name of proxy) (address)
being a member of that incorporated Association, as my proxy to vote for me on my behalf at the
general meeting of the Association (annual general meeting or special general meeting, as the
case may be) to be held on the
..... day of
(month and year)
and at any adjournment of that meeting.
* My proxy is authorised to vote in favour of/against (delete as appropriate) the resolution (insert
details).
* to be inserted if desired.
Signature of member appointing proxy
Date.....

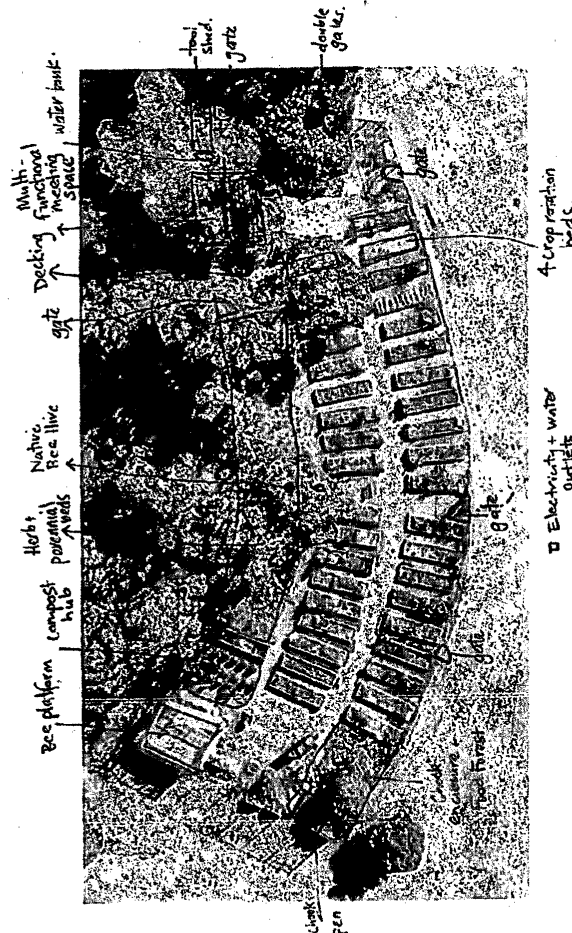
NOTE: A proxy vote may not be given to a person who is not a member of the Association.

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"D"

THIS IS THE ATTACHMENT "D" REFERRED TO IN DEED OF
LICENCE: PREMISES - ROSE BAY COMMUNITY GARDEN
MADE 2019 BETWEEN WOOLLAHRA
MUNICIPAL COUNCIL (AS LICENSOR) AND ROSE BAY
COMMUNITY GARDEN INCORPORATED (AS LICENSEE)

Rose Bay Community Garden - Layout of garden area.



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Doc ID 673758613/v1

Item No: R2 Recommendation to Council
Subject: **DRAFT RESTRICTED FUNDS POLICY**
Authors: Henrietta McGilvray, Senior Corporate Accountant
Paul Ryan, Chief Financial Officer
Approver: Sue Meekin, Director Corporate Performance
File No: 24/33416
Purpose of the Report: To provide the Finance, Community & Services Committee with an opportunity to review Council's Draft Restricted Funds Policy
Alignment to Delivery Program: Strategy 11.3: Ensure effective and efficient governance and risk management.

Recommendation:

THAT Council endorse the draft Restricted Funds Policy for the purpose of placing the Policy on public exhibition for a period of 28 days

Executive Summary:

The purpose of this report is to present to Council a draft Restricted Funds Policy seeking endorsement for it to be placed on public exhibition for a period of 28 days.

Council has not previously adopted a Restricted Funds Policy and this has been identified as a recommendation by Council's Audit, Risk & Improvement Committee (ARIC). The draft Restricted Funds Policy provides a framework for the establishment and management of Council's restricted cash funds. The Policy details what funds Council will place in external and internal restrictions and the purposes for which the restrictions will be applied.

Discussion:

Council has significant cash, cash equivalents and investments. Restrictions are established to set aside funds for Council to meet legislative requirements, to allocate funds against future projects and activities and to ensure sufficient funding is available to meet current and long term financial obligations.

At its meeting of 20 June 2023, Council's ARIC recommended that Council consider the establishment of a Restricted Funds Policy. There is no legislative requirement for Council to adopt a Restricted Funds Policy, however the ARIC noted that it is considered best practice and the absence of a policy may increase the risk of externally restricted funds being used for purposes in breach of legislation.

A draft policy was subsequently developed and presented to the ARIC at its meeting on 5 December 2023. A copy of the draft policy incorporating suggestions made by the ARIC at that meeting is presented at **Attachment 1** for the consideration of Council and to seek endorsement to place on public exhibition for a period of 28 days.

Restricted Funds are cash backed and are established for specific purposes. Restrictions are of two types:

1. External Restrictions - those where there is a legislative obligation to use the funds for the purpose for which they were paid to Council. Under section 409(3) of the Local Government Act 1993 they are of three categories:
 - a. Money that has been received as a result of the levying of a special rate or charge may not be used otherwise than for the purpose for which the rate or charge was levied (e.g. Domestic Waste Management charges).

- b. Money that is subject to the provisions of this or any other Act (being provisions that state that the money may be used only for a specific purpose) may be used only for that purpose (e.g. developer contributions).
 - c. Money that has been received from the Government or from a public authority by way of a specific purpose advance or grant may not, except with the consent of the Government or public authority, be used otherwise than for that specific purpose (e.g. specific purpose grant funding).
2. Internal Restrictions - those funds restricted only by a resolution of the Council. Internal restrictions are adopted by Council to cover commitments that are included in Council's Delivery Program and Operational Plan and where it is prudent for Council to hold cash restrictions to meet those future commitments.

Options:

Council has the option to:

1. Endorse the draft Restricted Funds Policy which provides a framework for the management of Council's restricted cash, to be placed on public exhibition. This is the recommended option.
2. Resolve not to endorse the draft Restricted Funds Policy. This is not recommended. The adoption of such a policy is considered best practice and its absence may increase the risk of restricted funds being used for inappropriate purposes, in breach of the applicable legislation.

Community Engagement and / or Internal Consultation:

Should the draft Restricted Funds Policy be endorsed by Council it will be placed on public exhibition, with a further report to be tabled at a future meeting of Council at the conclusion of the exhibition period, once any submissions have been reviewed.

Policy Implications:

The draft Restricted Funds Policy is a new policy to be adopted by Council. There is no legislative requirement for Council to adopt a Restricted Funds Policy however Council's ARIC has recommended its establishment, noting that it is considered best practice and the absence of a policy may increase the risk of externally restricted funds being used for purposes in breach of legislation.

Financial Implications:

There are no financial implications as a result of this report.

Resourcing Implications:

There are no resourcing implications as a result of this report.

Conclusion:

Council has significant cash, cash equivalents and investments. Restrictions are established to set aside funds for Council to meet legislative requirements, to allocate funds against future projects and activities and to ensure sufficient funding is available to meet current and long term financial obligations.

The draft Restricted Funds Policy at **Attachment 1** provides a framework for the management of Council's restricted cash. The adoption of such a policy is considered best practice and its absence may increase the risk of restricted funds being used for inappropriate purposes, in breach of the applicable legislation.

Should the draft Restricted Funds Policy be endorsed by Council it will be placed on public exhibition for a period of 28 days.

Attachments

1. Draft Restricted Funds Policy [!\[\]\(30a147af384f9f71632c2ff17bc706c8_img.jpg\) !\[\]\(9b33568d5c136f08ca688ce48be37574_img.jpg\)](#)



Restricted Funds Policy

Adoption Date:	TBA
Last Reviewed:	Not Applicable – New Policy
Next Review Date:	1 October 2025
Division/Department:	Corporate Performance/Finance
Responsible Officer:	Chief Financial Officer
HPE CM Record Number:	23/159052

1 Policy Statement

Council is committed to best practice financial reserves accounting and reporting, in accordance with accounting standards, statutory legislation and internal management reporting requirements.

2 Application

2.1 Purpose

The purpose of this policy is to provide a framework for the establishment and management of Council's restricted funds as reserves. The policy details those funds which Council recognises as external restrictions and internal allocations/restrictions and the purposes for which the reserves will be applied.

2.2 Scope

This Policy applies to all restrictions of cash, cash equivalents and investments held by Council as reserves.

2.3 Overview

Council has significant cash, cash equivalents and investments. These funds can either be Unrestricted Cash or Restricted Funds. Unrestricted Cash are cash, cash equivalents and investment funds available to cover operational needs and unexpected or emergency costs. Restricted funds are established to set aside cash, cash equivalents and investment funds for Council to meet legislative requirements or third-party contractual agreements. Internally Allocated/Restricted Funds are cash, cash equivalents and investment funds not subject to external restrictions may be internally allocated by resolution or policy of the elected Council for future projects and activities; and to ensure sufficient funding is available to meet current and long term financial obligations.

3 Definitions

Term	Meaning
Unrestricted Cash	Cash, Cash Equivalents and Investments not subject to restrictions. Available to cover operational needs and unexpected emergency costs.
Restricted Funds	Cash, Cash Equivalents and Investments subject to restrictions. These can be "Externally Restricted Funds" or "Internally Allocated/Restricted Funds".
Externally Restricted Funds	Externally restricted funds are cash, cash equivalents and investments created as reserves as a result of a legislative requirement governing the use of the funds or a third-party

Restricted Funds Policy

Term	Meaning
	contractual agreement. These funds must be fully expended for the specific purpose defined and cannot be used by Council for general operations.
Internally Allocated/Restricted Funds	Internally restricted funds are cash, cash equivalents and investments not subject to external restrictions may be internally allocated by resolution or policy of the elected Council for future projects and activities; and to ensure sufficient funding is available to meet current and long term financial obligations. The Council may resolve to change the purpose of these funds unless the funds are allocated to Employee Leave Entitlements (ELE).

4 Community Strategic Plan, Delivery Program and Operational Plan

This Policy relates to Themes, Goals and Strategies outlined in Council's Community Strategic Plan *Woollahra 2030* and Priorities outlined in Council's Delivery Program and Operational Plan, specifically:

Theme: Community leadership and participation

Goal 11: A well managed Council

Strategy 11.2: Develop and maintain effective reporting systems that enable Council to measure and report on performance

Priority: 11.2.1 Effective management of Council's finances

5 Relevant Legislation

Local Government Act, 1993

Local Government (General) Regulation, 2005

NSW Local Government Code of Accounting Practice and Financial Reporting

6 Policy Content

Restricted Funds are cash backed and are established for specific purposes. Restrictions are of two types:

- a) External Restrictions
- b) Internal Allocations / Restrictions

External Restrictions over cash, cash equivalents and investments are those where there is a legislative obligation to use the funds for the purpose for which they were paid to

Restricted Funds Policy

Council. Under section 409(3) of the Local Government Act 1993 they are of three categories:

- i. Money that has been received as a result of the levying of a special rate or charge may not be used otherwise than for the purpose for which the rate or charge was levied (e.g. Domestic Waste Management charges).
- ii. Money that is subject to the provisions of this or any other Act (being provisions that state that the money may be used only for a specific purpose) may be used only for that purpose (e.g. developer contributions).
- iii. Money that has been received from the Government or from a public authority by way of a specific purpose advance or grant may not, except with the consent of the Government or public authority, be used otherwise than for that specific purpose (e.g. specific purpose grant funding).

Internal Allocations / Restrictions over cash, cash equivalents and investments are those funds restricted only by a resolution of the Council. Internal restrictions are adopted by Council to cover commitments that are included in Council's Delivery Program and Operational Plan and where it is prudent for Council to hold cash restrictions to meet those future commitments.

The purpose of each of Council's external and internal restrictions is included at **Attachment 1**. External and Internal restricted funds are reported annually in Council's Annual Financial Reports and are reported monthly to Council in the monthly financial report.

Additional internal allocations/restrictions over cash, cash equivalents and investments may be created by resolution of Council. The Council resolution must set out:

- i. The name and purpose of the allocation/restriction.
- ii. The permitted use/s of the internally restricted funds.
- iii. How the funds are collected or the basis of calculating any transfer of funds to the restriction.
- iv. If there is an end date for the restricted funds to be utilised.

Internal allocations/restrictions must be authorised by a resolution of Council and will not normally be established for future expenditure less than \$500,000. Where possible, values less than this should be accommodated within the annual budget.

Interest must be applied to external cash restrictions where required by legislation, e.g. developer contributions. The rate of interest is equal to the end of month interest rate on the online saver deposit account (unless another rate or methodology is required by legislation). Interest earnings are added to the balance of the restriction.

Interest is not to be calculated and applied to internal allocations/restrictions. There may be individual circumstances where interest is applied to an internal allocation/restriction on payment/refund (e.g. security bonds & deposits).

Restricted Funds Policy

At least every 24 months Council will review its future need for the internal allocations/restrictions it is holding. All decisions to undertake a review of an internal allocation/restriction will be on the basis of the best use of those funds by Council. A Council resolution is required to return funds no longer required to unrestricted cash. If an urgent, unplanned or emergency needs arises during the year to access internally restricted funds Council may resolve to do so outside of the review process. The Council is not able to transfer or use the funds allocated to Employee Leave Entitlements (ELE).

7 Documentation/References

Document	HPE CM Reference
Attachment 1 – Restricted Reserves – Descriptions	24/33714

8 Related Policies and Procedures

Related Policy or Procedure	HPE CM Reference
Nil	

9 Policy Amendments

This Policy will be reviewed every two years or in accordance with legislative requirements. This Policy may also be changed from time-to-time as a result of related policy amendments and within the spirit of this Policy

Any amendment to this Policy must be by way of a Council Resolution.

Date	Responsible Officer	Description
30/08/2023	Chief Financial Officer	Creation of Policy

Attachment 1: Restricted and Allocated Reserves/Funds

Externally Restricted Reserves/Funds as at September 2023:

Cash, cash equivalents and investments subject to external restrictions are those which are only available for specific use by Council due to a restriction placed by legislation or third- party contractual agreement.

Reserve Name	Description
Developer Contributions - general	Reserve Account for Section 7.11 and Section 7.12 of the Environmental Planning and Assessment Act 1979, enables local councils or other consent authorities to levy monetary contributions for public amenities required as a consequence of development. Developer contributions received throughout the year are transferred to this reserve and transfers are then made out of the Reserve to fund individual projects. Note that there are no more contributions received under the 7.11 plan and the remaining reserve balance is earmarked for certain projects. "To be used in line with the 2002 plan" [That is the old s.94 2002 plan.]
Specific purpose unexpended grants (recognised as revenue) – general fund	Following the introduction of new accounting rules this Reserve will cease to exist once the current balance is used.
Environmental and infrastructure renewal levy (E&IRL)	Reserve Account for E&IRL Restrictions Council has a special rate for the Environmental & Infrastructure Renewal Levy (E&IRL) for ongoing funding of environmental and infrastructure renewal projects. Income received from the E&IR Levy is transferred to this reserve and transfers are made from this reserve to fund individual capital renewal projects.
Stormwater Management	Reserve Account for Stormwater Management Charge Restrictions. Section 496A of the Local Government Act enables council to make and levy an annual charge for stormwater management for each parcel of rateable land for which a stormwater management service is provided. Income received from the Stormwater Management Charge is transferred to this reserve and transfers are made from this reserve to fund individual projects.
Domestic Waste Management (DWM). Includes Employee Leave Entitlements (ELE) balance for DWM employees)	Reserve Account for Domestic Waste Management Restrictions. The Local Government Act 1993 provides in sections 496 & 504 that the domestic waste management services of the council must be financed by a specific annual charge made and levied for that purpose alone. This Reserve is used to hold funds that are unused at the end of the financial year. They are then utilised in future years to fund individual projects, including capital, for example the replacement of Council's Waste Collection Trucks.

Restricted Funds Policy

E&IRL Special Rate Variation (SRV) Reserve	Reserve Account for E&IRL Special Rate Variation (SRV) This reserve was established for the permanent E&IRL SRV levied on residents and business in 2023/24 (+10%) and 2024/25 (+5%). The additional rates collected and unspent in the financial year are transferred to this reserve for future SRV projects as identified in the SRV application approved in June 2023 by IPART. These projects occur over a 10 year period commencing in 2023/24.
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Internally Allocated Reserves/Funds as at September 2023:

Cash, cash equivalents and investments not subject to external restrictions may be internally allocated by resolution or policy of the elected Council to identified programs of works and any forward plans identified by Council.

Reserve Name	Description
Employees Leave Entitlement (ELE)	Reserve Account for Employee Leave Entitlement Restrictions. This reserve is required to fund the future payments of employee leave entitlements and is a requirement under both Office of Local Government accounting requirements and accounting standards.
Insurance Reserve	Reserve Account for Insurance Restrictions Council makes allowances for insurance costs within its budget including self-funded losses. The net result of the insurance income/expenditure compared to budget is transferred to/from the reserve at year end and set aside for insurance liabilities.
Information Technology Reserve	Reserve Account for Information Technology Restrictions. Reserve used to fund items related to Information Technology. The Library has a component of this reserve, whereby \$66,000 is transferred to the Library reserve each year.
Deposits, retentions and Bonds	Reserve Account for Deposits Restrictions Funds held in relation to Security Bonds, Deposits & Retentions held by Council. Many of these are held by Council and used to repair any damage to Council property e.g footpath and gutters. If there is no damage they are usually refunded back to the original payer.
Preschool Reserve (includes Employee Leave Entitlements (ELE) balance for Preschool employees)	Reserve Account for Preschool Restrictions This reserve is used for pre-school operations. Preschool fees are charged on a user pays basis to parents. Any net surplus/ deficit in the annual preschool budget is transferred to/ from this reserve at year end. Part of this reserve includes Employee Leave Entitlements (ELE) balance for Preschool employees. These ELE funds cannot be transferred.

Restricted Funds Policy

Property Reserve	Reserve Account for Property Restrictions This reserve receives the proceeds of any property transactions including road sales. They are held in the Reserve and used to fund projects in future years.
Carry over works	Reserve Account for Revotes & Rollovers Restrictions This reserve is used to fund items that have been revoted or rolled over from the prior year, via a resolution of Council.
Financial Assistance Grant Prepayment	Reserve Account for Financial Assistance Grant Restrictions Future year prepayment of the Financial Assistance Grants is transferred to this reserve at the end of the financial year for use in the following financial year.
Property Development Projects reserve	The small balance remaining in this reserve has been allocated to budgeted specific projects and the reserve is expected to close at the end of the 2023/24 year.
Oxford St Placemaking Reserve	This reserve is to be used for Placemaking projects in the Oxford Street Paddington area.
Old Section 94	Old Section 94 "were funds prior to the 2002 plan and not required to be transferred to the Externally Restricted reserve [s.711 Contributions reserve]. At the time of transfer, these Old Section 94 funds were identified to be utilised to fund car parking related projects and will be used accordingly". The funds are expected to be fully expended in 2023/24 at which time the reserve will be closed.
Open Space projects reserve	The balance remaining in this reserve has been allocated to budgeted specific projects and the reserve is expected to close at the end of the 2023/24 year.
Other	Reserves used to fund Specific Projects: a) Election Expenses - Council sets aside an amount annually to cover the costs of Council elections. In an election year the reserve balance is utilised. b) General Reserve – Council allocates an amount that includes funds for iPad/iPhone insurance. c) Plant Replacement Reserve - Proceeds from the sale of plant items to be used for plant replacement.
Open Space & Community Facilities Reserve	Reserve Account for Open Space & Community Facilities The balance remaining in this reserve has been allocated to budgeted specific projects and the reserve is expected to close at the end of the 2023/24 year.
Kiaora Place Reserve	Reserve Account for Kiaora Place investment property. At year end the Surplus/ Deficit of Kiaora Place investment property operations is calculated and transferred to/from this reserve. This reserve funds future capital works of the Kiaora Place investment property.

Restricted Funds Policy

Public Art Gallery Reserve	Reserve Account for Public Art Gallery Money. \$100,000 is set aside each year from s.7.12 Developer Contributions to fund Public Art. If the money is unspent in a particular year it is transferred to this reserve. Any monetary public art donations received are also transferred to this reserve. This reserve is used to fund Public Art purchases.
Special Rate Variation (SRV) Reserve	Reserve Account for Special Rate Variation (SRV) This reserve was created for the permanent SRV levied on residents and business in 2023/24 (+10%) and 2024/25 (+5%). The additional rates collected and unspent in the financial year is transferred to this reserve for future SRV projects as identified in the SRV application approved in June 2023 by IPART. These projects occur over a 10 year period commencing in 2023/24.

Item No: R3 Recommendation to Council
Subject: **MONTHLY FINANCIAL REPORT - 31 JANUARY 2024
INVESTMENT HELD AS AT 29 FEBRUARY 2024**
Author: Abdullah Rayhan, Team Leader Financial Services
Approvers: Paul Ryan, Chief Financial Officer
Sue Meekin, Director Corporate Performance
File No: 24/29883
Purpose of the Report: To present the monthly financial report for January 2024 and to present a list of investments held as of 29 February 2024.
Alignment to Delivery Program: Strategy 11.2: Secure Council's financial position.

Recommendation:

THAT Council:

- A. Receive and note the Monthly Financial Report – January 2024.
- B. Note that the Council's 12-month weighted average return for January 2024 on its direct investment portfolio of 5.12% (LM: 4.98%, LY: 3.52%) exceeds the benchmark 90-day AusBond Bank Bill Index of 4.41%.
- C. Note that the interest revenue for the year to date January 2024 is \$3.02M, exceeding our revised year to date budget of \$1.67M for the same period.
- D. Receive and note the list of Council's investments held as of 29 February 2024 (provided as late correspondence).

Executive Summary:

The purpose of this report is for the Responsible Accounting Officer (RAO), the Council's Chief Financial Officer to provide the Council with a written report for January 2024 as per the Local Government Regulation 2005 (Clause 212), setting out details of all money that the Council has invested.

As previously noted by the Committee, due to the end of the month occurring after the closure of the meeting agenda and business papers, the full report for that month is unable to be prepared for the meeting and is instead presented at the following meeting. In order to meet the investments reporting obligations under the Local Government (General) Regulation noted above, a list of investments held at the end of the month will be presented to the Committee at its meeting as 'late correspondence'. Therefore this report presents the full monthly financial report for January 2024. A list of investments held as of 29 February 2024 will be presented to the Committee at its meeting on 04 March 2024 as "late correspondence".

The 12-month weighted average return for January 2024 rose by 0.14bps to 5.12% (last month: 4.98%; last year's same month 3.52%) on the back of rising deposit rates. The interest revenue is ahead of our revised budget and will be reviewed as part of our quarterly forecast.

Discussion:

The Monthly Financial Report for January 2024 is submitted to the Committee for consideration and includes the following:

- ◆ Investment Transactions for the month.
- ◆ Restricted Cash (Reserves).
- ◆ Summary of Receipts, Payments, and Bank Balance.
- ◆ Details of Investment Portfolio.

- ◆ Investment Policy Compliance Report.
- ◆ Charts: Weighted Average Days to Maturity, Weighted Average Return, Weighted Average Return v 90-day AusBond Bank Bill Index, Actual Interest Earned v Original Budget & Revised Forecast.
- Movements in Book Value (Fair Value) of Investments.

Investment Transactions for January 2024

Date	Investment Description	Term	Rate	Transaction	Amount
Opening Balance as at 1 January 2024					109,157,796.19
10/01/2024	Commonwealth Bank	365	4.73	Maturity	-3,000,000.00
10/01/2024	BankVic	365	4.66	Maturity	-3,000,000.00
19/01/2024	National Australia Bank	1095	0.70	Maturity	-2,000,000.00
23/01/2024	ING Direct	370	4.63	Maturity	-2,000,000.00
24/01/2024	ING Direct	365	4.50	Maturity	-2,000,000.00
24/01/2024	National Australia Bank	377	5.15	Purchase	3,000,000.00
24/01/2024	Westpac Banking Corporation	377	5.16	Purchase	7,000,000.00
25/01/2024	CBA Online movement			Withdrawal	-1,500,000.00
31/01/2024	NAB Loan Repayment account		4.75	Monthly Interest	1,849.38
Net movement in Portfolio for the month					-3,498,150.62
Closing Balance as at 31 January 2024					105,659,645.57

Commentary:

Council's investment portfolio remains steady, and the total new investment for the month equates to \$10 million.

Restricted Cash

Restricted Cash is funds set aside for future expenditure and is established either by a legislative requirement or Council resolution. Reserves established by a legislative requirement are called "External Restrictions" while those established by Council are "Internal Restrictions".

The breakdown below shows that of the Council's total cash and investments of \$108.07M* at the end of January'24, \$95.20M was restricted leaving \$12.87M in unrestricted cash.

	31/01/2024
	\$'000
Total Cash, Cash Equivalents and Investments	108,074 *
Less: Restricted Cash:	
External Restrictions	24,015
Internal Restrictions	71,184
Unrestricted Cash	12,875

*Includes on call cash in operating bank accounts not included in the investments balance above.

Details of restricted cash balances are provided each quarter in the quarterly budget review.

Summary of Receipts, Payments, and Bank Balance

Cash Book Balance as at 31 December 2023

2,016,888.49

General Fund Acct 1,260,559.93
Kiaora Bank Acct 756,328.56

Receipts

Rates	1,755,484.11
Investment Maturities	12,000,000.00
Transfers In from At Call Accounts	1,526,236.58
Other	7,393,918.90
Total Receipts	22,675,639.59

10 Largest Receipts during the month

Description	This month	Current YTD	Previous YTD
Kiaora Place	1,040,013	7,294,193	6,971,339
GST Refund	1,046,707	2,722,015	1,379,961
Sundry Debtors	899,833	11,802,220	6,036,653
Parking Fines	631,277	4,382,205	3,859,366
Deposits & Bonds	625,110	5,845,471	5,633,076
S7.21 Contributions	360,303	2,500,632	1,745,995
Parking Meter Charges	228,893	1,459,345	1,299,490
Trade Waste Debtors	181,942	1,060,669	980,698
Development Application Fees	129,634	660,844	753,096
Pensioner Rebate Subsidy	103,214	103,214	111,324
	5,246,926	37,830,808	28,770,997

Payments

Cheque Payments	-562,488.12
Cancelled Cheques	12,963.73
EFT Payments	-7,947,156.99
Returned EFT Payments	254.99
Total Payments before Direct Debits	-8,496,426.39

10 Largest Payments during the month

Reference	Payment Date	Payee	Description	Amount
0000107617	25/01/2024	Office of State Revenue	Unclaimed Money return	-540,976.00
0000107571	25/01/2024	Veolia Environmental Services	Tipping fees - Municipal/Commercial	-525,723.97
0000107595	25/01/2024	Icare Workers Insurance	Insurance Premium adjustments	-491,881.56
0000107350	11/01/2024	PayClear Services Pty	Superannuation Payment	-431,081.80
0000107330	11/01/2024	Holdsworth St Community	Community Support Quarterly Contribution	-246,124.73
0000107268	11/01/2024	Ally Property Services Pty	General Works - Capital Projects	-243,991.61
0000107149	4/01/2024	Civeco Pty Ltd	General Works - Capital Projects	-206,593.79
0000107427	18/01/2024	Civeco Pty Ltd	General Works - Capital Projects	-187,036.54
0000107399	11/01/2024	URM Environmental Services Pty	Waste recycling collection	-184,731.83
0000107536	18/01/2024	ZEN Energy Retail Pty	Utility Charge - Street lighting (Sep - Dec'23)	-167,702.23

Payments - Direct Debits From Bank A/c

Payroll	-2,906,951.36
PAYG Tax	-1,042,751.00
Bank Charges	-2,407.70
Revenue Collection Charges	-16,637.65
Investment Purchases	-10,000,000.00
Credit cards	-13,451.09
Other direct debits	
Total Direct Debits for period	-13,982,198.80

Total Payments

-22,478,625.19

Cash Book Balance as at 31 Jan 2024

2,213,902.89

General Fund Acct 1,419,199.75
Kiaora Bank Acct 794,703.14

Issued Cheques	Value: 175,945.63
Outstanding Deposits & Miscellaneous Items	18,838.28

Reconciled Cash Book Balance as at 31 Jan 2024

2,408,686.80

Bank A/c Balances as at 31 Jan 2024

2,408,686.80

General Fund Acct 1,613,983.66
Kiaora Bank Acct 794,703.14

Unpresented Cheques > \$50,000.00

Cheque No.	Cheque Date	Payee	Description	Amount

Commentary:

This statement presents Council's bank reconciliation as of 31 January 2024. The top ten receipts and payment items are provided. Excluding investment transactions, payments exceeded receipts this month by approximately \$3.3M and together with movements in cash at bank resulted in a \$3.4M decrease in our total portfolio value.

DETAILS OF INVESTMENTS PORTFOLIO AS AT 31 JANUARY 2024

RATING	BANK & SECURITY	PURCHASE DATE	MATURITY DATE	TOTAL TERM (DAYS)	REMAINING DAYS TO MATURITY	%	BOOK VALUE \$
	<u>1. OAKVALE CAPITAL Limited</u>						
	Emerald Reverse Mortgage Backed Security Face Value 1 Million						727,156.28
	<u>2. WMC DIRECT INVESTMENTS</u>						
AA	<u>WESTPAC BANKING CORPORATION</u>						
	TERM DEPOSIT	14/02/2023	14/02/2024	365	14	4.97	6,000,000.00
AA	<u>NATIONAL AUSTRALIA BANK</u>						
	TERM DEPOSIT	27/02/2023	27/02/2024	365	27	5.02	4,000,000.00
A	<u>ING DIRECT</u>						
	TERM DEPOSIT	9/03/2023	11/03/2024	368	40	4.98	3,000,000.00
AA	<u>WESTPAC BANKING CORPORATION</u>						
	TERM DEPOSIT	9/03/2023	11/03/2024	368	40	4.81	5,000,000.00
AA	<u>NATIONAL AUSTRALIA BANK</u>						
	TERM DEPOSIT	9/03/2023	11/03/2024	368	40	4.85	5,000,000.00
AA	<u>WESTPAC BANKING CORPORATION</u>						
	TERM DEPOSIT	29/03/2023	28/03/2024	365	57	4.39	4,000,000.00
AA	<u>NATIONAL AUSTRALIA BANK</u>						
	TERM DEPOSIT	13/04/2023	15/04/2024	368	75	4.50	3,000,000.00
BBB	<u>BENDIGO ADELAIDE BANK</u>						
	TERM DEPOSIT	27/04/2023	26/04/2024	365	86	4.70	5,000,000.00
BBB	<u>BANKVIC</u>						
	TERM DEPOSIT	29/05/2023	29/05/2024	366	119	5.11	5,000,000.00
BBB	<u>AMP BANK</u>						
	TERM DEPOSIT	8/06/2023	11/06/2024	369	132	5.45	4,000,000.00
AA	<u>NATIONAL AUSTRALIA BANK</u>						
	TERM DEPOSIT	19/07/2023	22/07/2024	369	173	5.44	5,000,000.00
BBB	<u>AMP BANK</u>						
	TERM DEPOSIT	19/07/2023	22/07/2024	369	173	5.75	3,000,000.00
AA	<u>COMMONWEALTH BANK</u>						
	TERM DEPOSIT	21/08/2023	20/08/2024	365	202	5.53	5,000,000.00
A	<u>SUNCORP BANK</u>						
	TERM DEPOSIT	21/08/2023	21/08/2024	366	203	5.21	5,000,000.00
AA	<u>NATIONAL AUSTRALIA BANK</u>						
	TERM DEPOSIT	20/09/2023	23/09/2024	369	236	5.30	8,000,000.00
AA	<u>WESTPAC BANKING CORPORATION</u>						
	TERM DEPOSIT	31/10/2023	31/10/2024	366	274	5.50	2,000,000.00
A	<u>SUNCORP BANK</u>						
	TERM DEPOSIT	28/11/2023	28/11/2024	366	302	5.47	2,000,000.00
BBB	<u>BANK OF QUEENSLAND</u>						
	TERM DEPOSIT	20/12/2023	21/01/2025	398	356	5.10	1,000,000.00
A	<u>SUNCORP BANK</u>						
	TERM DEPOSIT	20/12/2023	21/01/2025	398	356	5.20	7,000,000.00
A	<u>ING DIRECT</u>						
	TERM DEPOSIT	20/12/2023	21/01/2025	398	356	5.23	7,000,000.00
AA	<u>NATIONAL AUSTRALIA BANK</u>						
	TERM DEPOSIT	24/01/2024	4/02/2025	377	370	5.15	3,000,000.00
AA	<u>WESTPAC BANKING CORPORATION</u>						
	TERM DEPOSIT	24/01/2024	4/02/2025	377	370	5.16	7,000,000.00
<u>AT CALL:</u>							
AA	<u>COMMONWEALTH BANK</u>						
	ONLINE SAVER A/C					4.35	5,500,000.00
AA	<u>NATIONAL AUSTRALIA BANK</u>						
	LOANS REPAYMENT A/C					4.75	432,489.29
	Total WMC Direct Investments						104,932,489.29
	Weighted Average Days to Maturity of WMC Direct Investments				184		
	Weighted Average Return of WMC Direct Investments					5.12	
	PORTFOLIO TOTALS						105,659,645.57

I hereby certify that the above investments have been made in accordance with Section 625 of the Local Government Act 1993, Clause 212 of the Local Government (General) Regulation 2005 and Council's investment policy.

P. Ryan
CHIEF FINANCIAL OFFICER

Commentary:

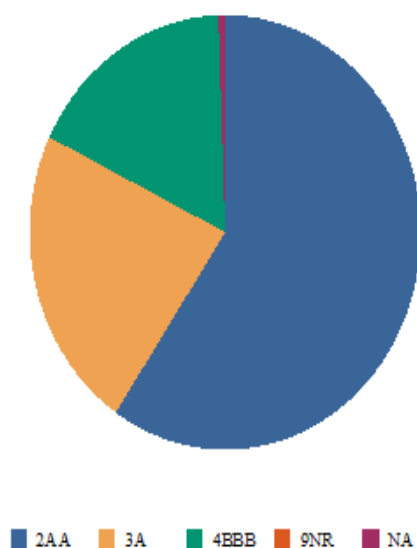
As of the end of January 2024, Council was within the policy limits for each individual ADI. Overall, the portfolio is well diversified across the entire credit rating spectrum. The majority of the portfolio is directed to fixed-term deposits and cash.

**Investment Policy Compliance Report
as at 31 January 2024**

Acct	Bank	Rating Cat.	%	Policy Limit \$	Current Holding	% of Total	Compliance
Counterparty Limits:							
AMP	AMP Bank	BBB	10%	10,565,965	7,000,000	7%	Complies - \$ 3,565,964 available
BAB	Bendigo Adelaide Bank	BBB	10%	10,565,965	5,000,000	5%	Complies - \$ 5,565,964 available
CBA	Commonwealth Bank	AA	30%	31,697,894	10,500,000	10%	Complies - \$21,197,893 available
ING	ING Direct	A	15%	15,848,947	10,000,000	9%	Complies - \$ 5,848,946 available
NAB	National Australia Bank	AA	30%	31,697,894	28,432,489	27%	Complies - \$ 3,265,404 available
OAK	Oakvale Capital	NA		0	727,156	1%	Grandfathered - Complies
QLD	Bank of Queensland	BBB	10%	10,565,965	1,000,000	1%	Complies - \$ 9,565,964 available
SUN	Suncorp	A	15%	15,848,947	14,000,000	13%	Complies - \$ 1,848,946 available
VIC	BankVic	BBB	10%	10,565,965	5,000,000	5%	Complies - \$ 5,565,964 available
WBC	Westpac Banking Corporation	AA	30%	31,697,894	24,000,000	23%	Complies - \$ 7,697,893 available
					105,659,646		

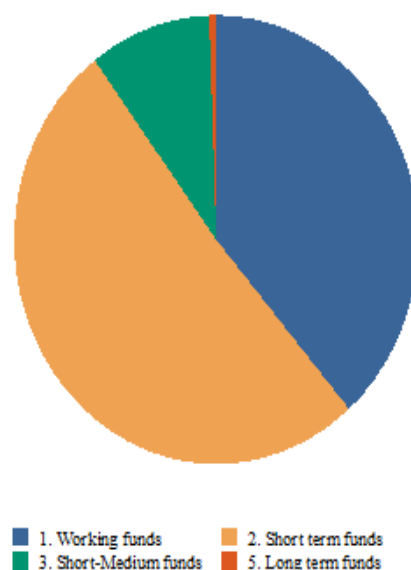
Credit Quality Limits:

Rating Cat.	Limit	\$	%	
AA	100%	62,932,489	60%	Complies
A	60%	24,000,000	23%	Complies
BBB	40%	18,000,000	17%	Complies
NA		727,156	1%	Grandfathered
		105,659,646		

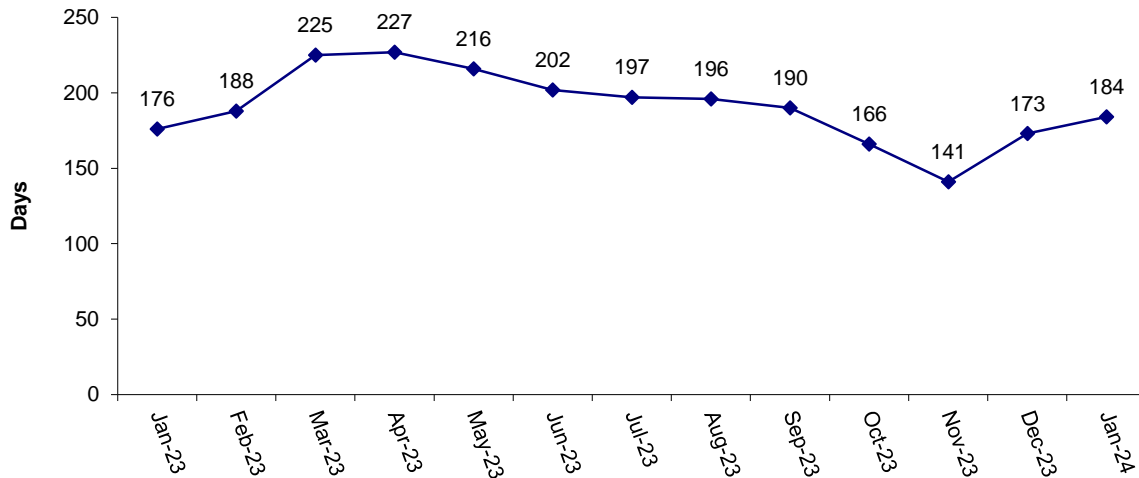


Term to Maturity Limits:

Term	Limit	\$	%	
1. Working funds	10-100	40,932,489	39%	Complies
2. Short term funds	20-100	54,000,000	51%	Complies
3. Short-Medium funds	0-70	10,000,000	9%	Complies
5. Long term funds	0-20	727,156	1%	Complies
		105,659,646		



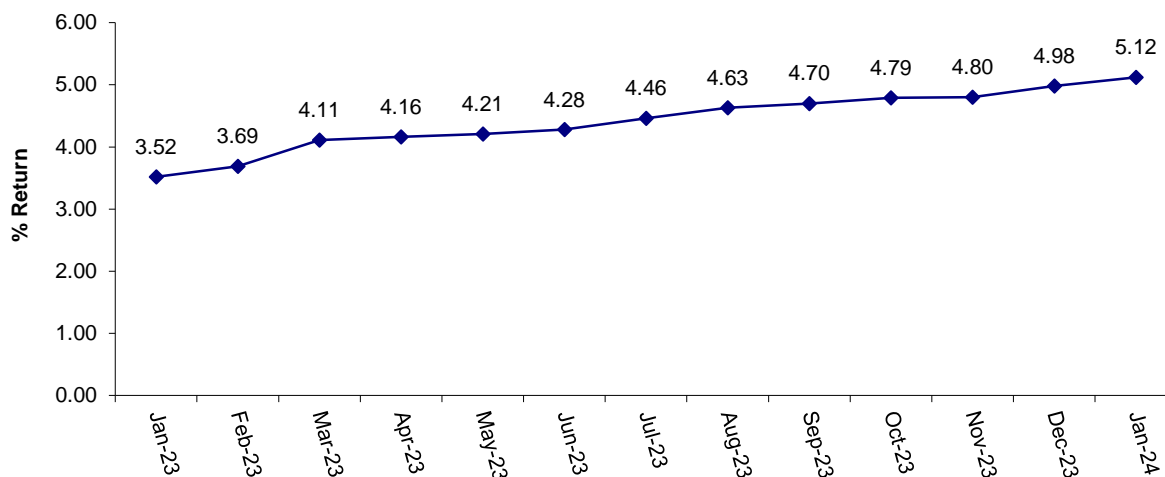
Weighted Average Days to Maturity



Commentary:

The weighted average days to maturity increased by 11 days over the previous month due to longer-term investments capturing better rates and new investments placed on terms no greater than 377 days.

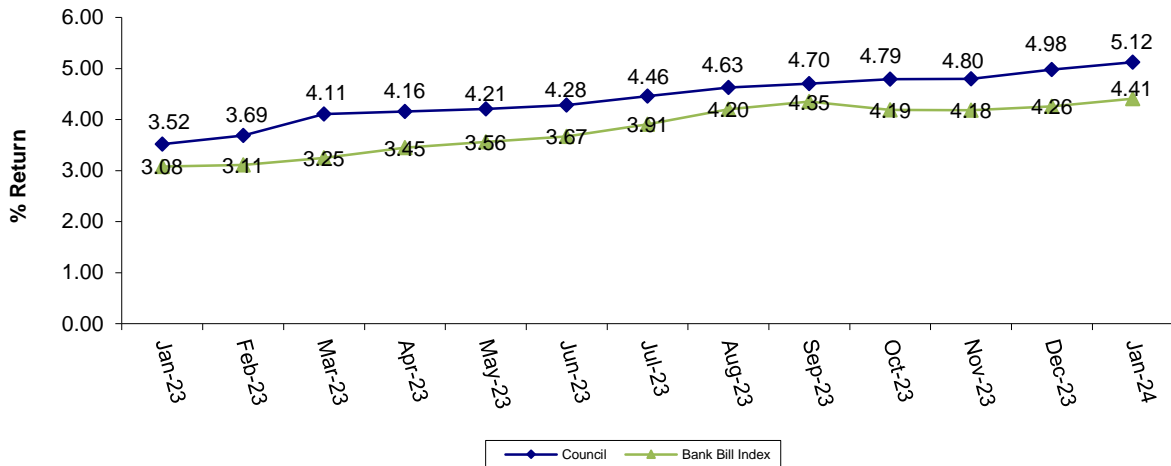
Weighted Average Return



Commentary:

The weighted average return for January 2024 saw an increase of 0.14bps with new investments placed on interest rate terms ranging from 5.15% to 5.16% per annum.

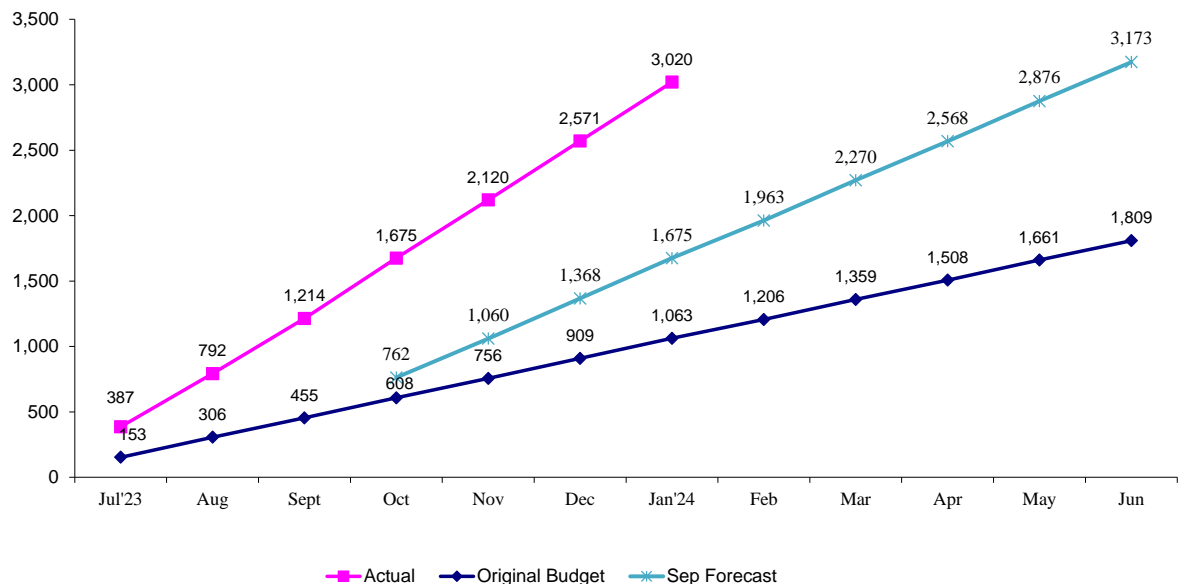
Weighted Average Return v Bank Bill Index



Commentary:

This chart tracks the Council's weighted average return on its direct investment portfolio against a 90-day AusBond Bank Bill Index. The Council's weighted average increased to 5.12% per annum with the 3mth AusBond Bank Bill Index of 4.41% per annum.

Actual Interest Earned v Budget \$'000



Commentary:

Council's year to date January 2024 interest revenue came in at \$3.02M, ahead of our revised budget and will continue the trend.

Movements in Book Value (Fair Value) of Investments

EMERALD MBS2007-1B

	Securities	Total Book Value
30/06/2023 Balance brought forward	727,156.28	727,156.28
	727,156.28	

Commentary:

The table above details movements in the Council's portfolio formerly managed by Oakvale Capital. It typically includes the maturity or sale of securities, quarterly coupon payments and fair value (market) adjustments.

Options:

This report is presented to the Committee for noting.

Community Engagement and/or Internal Consultation:

There has been no community engagement or internal consultation in the preparation of this report.

Policy Implications:

There are no Policy implications arising from this report.

Financial Implications:

Over the financial year depending on economic conditions and bank interest offerings, Council will continue to invest in the longer term by placing a slightly larger proportion of deposits across 12 months or more. Over a cycle and in a normal market environment, this may earn up to $\frac{1}{4}$ - $\frac{1}{2}$ % p.a. higher compared to investing in shorter terms.

Conclusion:

Despite potential interest rate cuts on the horizon, given an upward-sloping deposit curve, maintaining a slightly longer average duration position on deposits will continue to outperform shorter durations. The deposit market has largely already factored in the potential rates cut cycle, reflected by the flattening of the curve demonstrated by the longer-term holdings over the past few months. Interestingly, amongst the major banks, 2 to 5-year deposit rates are now being offered slightly below 12-month rates. Therefore, Council continues to place new investments on terms no greater than 12 months with rates on offer continuing to increase along this part of the curve.

Due to the timing of the March 2024 FC&S Committee meeting being so close to February month end, the February 2024 Monthly Financial Report will be tabled at the April 2024 FCS Committee in line with the Committee resolution.

To meet the minimum investments reporting obligations under the Local Government (General) Regulation a list of investments held as of 29 February 2024 will be presented to the Committee at its meeting on 04 March 2024 as late correspondence.

Attachments

Nil

Item No: R4 Recommendation to Council
Subject: **REQUEST FOR FEE WAIVER FOR THE PADDINGTON SOCIETY TO HOLD MONTHLY MEETINGS AT EJ WARD PADDINGTON COMMUNITY CENTRE**
Author: Susan Murray, Venue Coordinator
Approvers: Vicki Munro, Manager Community & Culture
Patricia Occelli, Director Community & Customer Experience
File No: 24/28032
Purpose of the Report: To request Council to waive the venue hire fees for the hire of EJ Ward Paddington Community Centre for The Paddington Society for monthly meetings during the period March to November 2024.
Alignment to Delivery Program: Strategy 1.1: Provide, promote and facilitate a range of community projects, programs and events that support an inclusive, thriving and sustainable community.

Recommendation:

THAT Council approve the waiver of venue hire fees at EJ Ward Paddington Community Centre for The Paddington Society from March to November 2024 at a value of \$732.00.

Executive Summary:

The Paddington Society has written to Council on 2 February 2024 to request monthly bookings at EJ Ward Paddington Community Centre for 3 hours each time to hold their meetings. They have also requested that Council waive all venue hire fees for this use for the period February to November 2024. **(See Attachment 1)**

The purpose of this report is to seek Council's resolution to waive venue hire fees to The Paddington Society to allow the group to hold their monthly meeting at EJ Ward Paddington Community Centre.

Discussion:

The Paddington Society is a Not For Profit organisation established in 1964 consisting of volunteer members who work with the local community and Council to maintain Paddington's heritage and amenity for the community's benefit.

The Paddington Society have requested the hire of the communal lounge room on the third Monday of each month from 5pm til 8pm from February to November 2024. Approximately 14 members attend each meeting. As EJ Ward Paddington Community Centre is a multi-roomed venue the use of the lounge room space does not impact on the ability to hire other rooms throughout the venue at the same time.

In accordance with Council's fees and charges schedule, The Paddington Society would meet the criteria for the Not For Profit rate of \$29.50 per hour (applicable up until 30 June 2024). This organisation commenced use of the facility in July 2022 and have previously been provided free venue hire under the former subsidy application process, approved by the divisional Director.

Section 356 of the Local Government Act stipulates that financial assistance such as this requires a resolution of Council.

Options:

Council may resolve in line with the recommendation as included in this report or, Council may choose to resolve in some other manner.

Community Engagement and / or Internal Consultation:

There was no community engagement and / or internal consultation required in writing this report.

Policy Implications:

There are no policy implications as a result of this report.

Financial Implications:

Should the Council approve the waiving of the venue hire fees as per the recommendation, the reduced income to Council is \$732.00 based on fees for 2023/2024 and the draft fees for 2024/2025. This waiver of the hire fee only covers from March to November 2024 as the request was received in the first week of February.

Resourcing Implications:

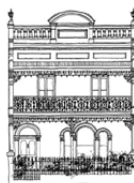
There are no resourcing implications as a result of this report.

Conclusion:

The Paddington Society has been booking the EJ Ward Paddington Community Centre since July 2022 at no cost, under the previous subsidy arrangement. As a Not For Profit community association, which works with the local community to maintain Paddington's heritage and amenity, it is recommended that Council support the request to waive venue hire fees of \$732.00 at EJ Ward Community Centre to cover their monthly meetings from March to November 2024.

Attachments

1. The Paddington Society Fee Waiver Request 2 February 2024 [↓](#) 



THE PADDINGTON SOCIETY Inc.
For Community and Heritage
Est 1964

Mr Craig Swift-McNair
General Manager, Woollahra Municipal Council
PO Box 61, Double Bay NSW 1360

2 February, 2024

For the attention of Paddington Ward Councillors and Director, Community & Customer Experience

Dear Craig and Councillors,

Venue Hire Subsidy Request – E I Ward Centre, Underwood Street, Paddington

The Paddington Society again requests from Council a continuation of use of a WMC facility.

Some background for your records: Juniper Hall, Paddington's oldest house, was threatened with destruction some decades ago. In 1984, less than a year after a permanent conservation order was placed on Juniper Hall (JH), the State Minister approved a commercial development of the property. The National Trust (NT), The Paddington Society and Woollahra Council opposed this scheme and the Trust commenced a campaign to raise funds to purchase JH for offices and community use.

The Paddington Society rallied locals and, with "Save Juniper Hall" banners, marched along Oxford Street on a busy Saturday morning, supported by crowds of cheering bystanders. The event culminated in our local MP, Fred Miller, announcing that the State government would give \$750,000 to the NT on a dollar-for-dollar basis for purchase of JH. The Paddington Society donated \$5,000. Lesley Bridle, a Society member, bequeathed her valuable house to the NT for sale, and Woollahra Council donated a generous \$250,000 to relocate the Museum of Childhood to Juniper Hall. The NT also gave the Society a room in the building, to be used in perpetuity for its headquarters.

From the late 1980s we therefore had ongoing use of rooms on the lower ground floor for our monthly meetings, occasional small community events and archive storage.

Unfortunately the Museum, café, NT shop and community rentals were financially unviable, failing to meet ongoing maintenance costs. The NT subsequently leased the building to various commercial organisations, and finally sold a 99 year lease to the Moran family, who have undertaken to restore JH as a family residence with a new art gallery to the rear.

In 2022, Peter Moran advised us that major construction works at Juniper Hall were imminent, and **we therefore cleared and vacated our rooms during that year**. We explored various options and during 2023 we were grateful to receive from Council fully subsidised use of a meeting room.

The E I Ward Centre in the heart of Paddington has proved to be an ideal place for the Society to meet and continue its work in partnership with Council. The advertised hire costs remain too much for us. As you know, we are a non-profit group of volunteers, devoted to maintaining Paddington's heritage and the amenity of residents.

Our Executive Committee of 14, maximum 16 people, meets on the 3rd Monday evening of each month for up to three hours (except in December and January). We continue to need the use of a room with chairs and tables to review, discuss, document issues and decide ongoing action.

We hope that Council will be prepared to waive the fees for our continued use of this venue?

Yours sincerely

Esther Hayter, President, The Paddington Society, 0411 109 770

Juniper Hall • PO Box 99 Paddington 2021 • Telephone 9360 6159 • ABN 99 885 076 141

Item No: R5 Recommendation to Council
Subject: **REVIEW OF COUNCIL POLICY FOR MANAGING LEASING & LICENSING OF COUNCIL CONTROLLED LAND**
Authors: Zubin Marolia, Manager Property & Projects
Tom O'Hanlon, Director Infrastructure & Sustainability
Approver: Tom O'Hanlon, Director Infrastructure & Sustainability
File No: 24/30490
Purpose of the Report: To seek Council endorsement to publicly exhibit a revised policy
Alignment to Delivery Program: Strategy 11.3: Ensure effective and efficient governance and risk management.

Recommendation:

THAT Council:

- A. Approve the exhibition of the revised *Leasing and Licensing of Council Controlled Land Policy* for a period of 28 days.
- B. Note that a further report will be tabled following the conclusion of the exhibition period.

Executive Summary:

Council adopted a policy for management of leasing and licensing of Council controlled land in 2004. The policy has been reviewed periodically by staff throughout the intervening period but has not been brought before Council for endorsement of any required amendments. This reflects that the policy has remained relatively fit for purpose and has not, in the view of staff, required significant amendment.

A revised Policy (**Attachment 1**) is now being brought before Council due primarily to the lengthy period since adoption of the existing policy but also because the revised Policy seeks to explicitly clarify which leases and licenses will require a resolution of Council and which will be granted under delegation to the General Manager.

It is noted that the revised policy does not materially change Council's previously adopted approach to leasing and licensing but the document has been substantially re-written to provide greater clarity and to make it consistent with any changes to relevant legislation.

Discussion:

The types of Council owned or managed land which are subject to lease and licences, and the primary legislation which governs their management, are shown in the following table;

Land Type	Applicable Legislation
Council owned land which is classified as Community	Local Government Act 1993 S25,46
Council owned land which is classified as Operational (e.g. Kiaora Place)	Local Government Act 1993 S25
Crown Land which is managed by Council	Crown Land Management Act 2016 S3.23
Road Reserves	Roads Act 1993 S153

Generally, leasing and licensing of Council owned or controlled land assets falls into the following categories;

- Leases and licenses to commercial operators on Community Land or Crown Land
- Leases and licenses to commercial operators on Operational Land
- Lease and licenses to not-for-profit community and / or sporting organisations
- Leases of road reserve

Council's approach to leases and licenses under each of these categories is outlined in the attached draft Policy under the heading *5. Leasing or Licensing of Council Controlled Land Assets*. It is noted in particular that for each of the categories, the Policy defines whether the granting of a lease or license will be subject to Council resolution or will be delegated to the General Manager.

Currently the General Manager has delegation to all approve all leases and licenses. Consistent with advice previously provided to Councillors by the General Manager, it is now proposed to limit the extent of the General Manager's delegation and require that those categories of leases and licenses which attract a high level of community interest and / or potential community impact be brought to Council for determination.

This revised delegation regime is summarised in the following table;

Category	Delegation
Leases and licenses to commercial operators on Community Land or Crown Land	Requires Council resolution
Leases and licenses to commercial operators on Operational Land where the term of the lease or license is less than 15 years and the rental value is less than \$1m p.a.	Delegated to General Manager (as per current delegations)
Leases and licenses to commercial operators on Operational Land where the term of the lease or license is 15 years or longer and the rental value is \$1m p.a. or greater.	Requires Council resolution
Leases and licenses to not-for-profit community and / or sporting organisations	Requires Council resolution
Leases of road reserve	Requires Council resolution

As can be seen in the above table, in almost all cases the granting or license will be subject to a Council resolution. The only exceptions will be for some commercial leases over Operational Land, which are proposed to be delegated to the General Manager. The rationale for this exception is outlined at page 5 of the draft Policy, as per the following excerpt;

For Operational land, there are no special restrictions under the Local Government Act relating to the granting of leases and licenses. Management of these sites is effectively the same as for privately owned land.

In managing retail and commercial leases on operational land, Council's principal objective will be to efficiently achieve optimum commercial benefit over the long term, noting that effective management of a large retail/commercial leasing portfolio requires a high degree of agility and ability to capitalise on appropriate commercial offers as they arise.

For the majority of retail and commercial sites on Operational land, leases and licenses will be granted under delegation to the General Manager and will be subject to an appropriate market testing process, which may be in the form of an expression of interest/tender or through attainment of advice from a specialist retail consultant or centre manager.

The delegations as proposed in the draft Policy will be consistent with those proposed in the General Manager's delegation which will be tabled at a future meeting of Council.

Options:

As there are numerous examples throughout the Woollahra LGA of Council controlled land which are subject to a lease or license, it is essential that Council has in place an adopted policy framework that addresses issues that may arise.

It is open to Council to endorse for exhibition the draft Policy as attached to this report or to resolve to amend the draft Policy prior to exhibition.

Community Engagement and / or Internal Consultation:

The draft *Leasing and Licensing of Council Controlled Land Policy* has been prepared by Council's Property and Projects team with input from the Community Services team.

Subject to Council endorsement, it is proposed to publicly exhibit the draft Policy on Council's Your Say Woollahra page for a period of 28 days.

A further report will be provided to Council for consideration of the comments received on the draft Policy post the exhibition period.

Policy Implications:

If adopted by Council, the draft *Leasing and Licensing of Council Controlled Land Policy* will replace the previous policy which was adopted in 2004.

Financial Implications:

The revised Policy is essentially an update and clarification of the previous policy and does not materially alter Council's approach to leasing and licensing. Adoption of the draft Policy will have no financial implications.

Resourcing Implications:



There are no resourcing implications as a result of this report.

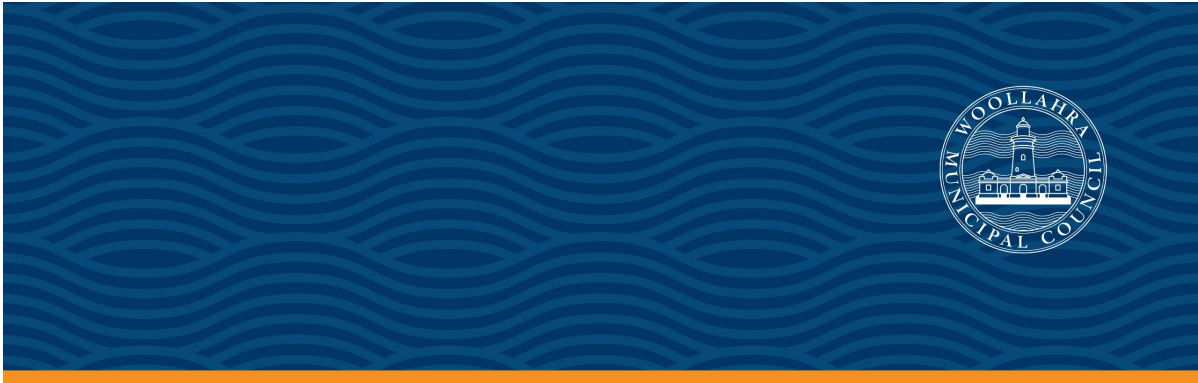
Conclusion:

The previously adopted Council policy for managing leases and licenses over Council controlled land has been updated and revised to provide greater clarity, particularly around delegations for granting of lease and licenses.

It is recommended that the draft *Leasing and Licensing of Council Controlled Land Policy* be publicly exhibited for a period of 28 days, with a further report to be provided to Council after the closing of the exhibition period.

Attachments

1. DRAFT Corporate Policy - Leasing and Licensing Council Controlled Land Policy - February 2024  



Leasing and Licensing of Council Controlled Land Policy (draft February 2024)

Adoption Date:	
Review Date:	
Version:	
Division/Department:	Infrastructure & Sustainability/Property & Projects
Responsible Officer:	Manager, Property & Projects
HPE CM Record Number:	24/13026

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Policy Statement

1. Objective

The objective of this policy is to ensure that, when considering the leasing or licensing of Council controlled land or land based assets, Council explores possible options for the use of the land, applies processes that are demonstrably equitable, consistent and transparent, complies with appropriate legislative requirements and obtains best value results for the Woollahra community.

2. Principles

All leasing or licensing of Council-controlled land assets will:

- Be consistent with Council's economic, social and environmental objectives,
- Be undertaken in compliance with legislative and other obligations, including Office of Local Government and/or ICAC guidelines,
- Be consistent with adopted Community and Crown Land Plans of Management
- Be informed by relevant strategies adopted by Council
- Be informed, where appropriate, by consultation with affected stakeholders
- Be undertaken with the intention of securing an optimum mix of financial and other benefits for the community,
- Be through a fair and open process and include regular market testing where appropriate
- Be open to public scrutiny while maintaining appropriate levels of commercial confidentiality

3. Application of this Policy

This Leasing and Licensing Policy applies to the Woollahra Council Local Government area and any land or land-based property assets owned by Woollahra Council and Crown Land controlled and/or managed by Woollahra Council on behalf of the Crown or a Trust.

The Policy does not apply to;

- Short term and casual hire of parks, sportsfields and community halls (managed through application process and adopted Fees and Charges)
- Seasonal hire of sportsfields (managed through seasonal application process and adopted Fees and Charges)
- Footway Dining Approvals (managed under separate policy)
- Private encroachments onto Council land (managed under separate policy)

4. Types of Land Over Which Leases and Licenses Occur in Woollahra

The types of land which are either owned or managed by Council and to which leases and licenses are granted are shown in the following table;

Land Type	Applicable Legislation
Council owned land which is classified as Community	Local Government Act 1993 S25,46
Council owned land which is classified as Operational	Local Government Act 1993 S25
Crown Land which is managed by Council	Crown Land Management Act 2016 S3.23
Road Reserves	Roads Act 1993 S153

5. Leasing or Licensing of Council Controlled Land Assets

Leasing and licensing of Council owned or controlled land assets will generally fall into the following categories;

- Leases and licenses to commercial operators on Community Land or Crown Land
- Leases and licenses to commercial operators on Operational Land
- Leases and licenses to not-for-profit community and / or sporting organisations
- Leases of road reserve

Council's approach to leases and licenses under each of these categories shall be as outlined below:

i. Leases and licenses to commercial operators on Community Land or Crown Land

Council frequently enters into leases for commercial activity on Community Land or Crown Land which is managed by Council. Examples of activities which are currently subject to lease or license are kiosks, cafes and tennis centres in parks and reserves.

The Local Government Act includes specific and prescriptive requirements relating to leasing and licensing of Community land. These relate primarily to the types of leases and licenses that may be entered into and the term of those agreements. These requirements flow through to Crown Land managed by Council as the Crown Lands Management Act requires Council to manage these lands as if they were Community land under the Local Government Act.

Leasing and Licensing of Council Controlled Land Policy

Very importantly, any lease or license to be entered into on Community or Crown land must be expressly authorised in the Plan of Management applying to the land.

In granting any lease or license over Community or Crown land, Council will at all times ensure consistency with S46 of the Local Government Act and S3.23 of the Crown Lands Management Act.

In addition, the following specific approach shall be followed prior to granting of leases and licenses to commercial operators on Community or Crown Land;

1. The market shall be tested through an open tender process.
2. In recognition of the strong community interest that is often associated with these activities, the results of the tender process shall be reported to Council and the granting of the lease or license shall be subject to Council resolution and not delegated to the General Manager.
3. The maximum term of leases and licenses shall be 15 years, including any option for extension.

ii. Leases and licenses to commercial operators on Operational Land

Council owns a number of sites which are classified as Operational land and over which leases and licenses may be granted. Examples include the Kiaora Place site in Double Bay and the Cross Street Car Park and Cosmopolitan Centre in Double Bay.

For Operational land, there are no special restrictions under the Local Government Act relating to the granting of leases and licenses. Management of these sites is effectively the same as for privately owned land.

In managing retail and commercial leases on operational land, Council's principal objective will be to efficiently achieve optimum commercial benefit over the long term, noting that effective management of a large retail/commercial leasing portfolio requires a high degree of agility and ability to capitalise on appropriate commercial offers as they arise.

For the majority of retail and commercial sites on Operational land, leases and licenses will be granted under delegation to the General Manager and will be subject to an appropriate market testing process which may be in the form of an expression of interest/tender or through attainment of advice from a specialist retail consultant or centre manager.

The exception to this will be for leases and licenses which have a term of greater than 15 years (including any option for extension) or annual income of greater the \$1m. In these instances, the General Manager will not have delegation to grant these leases and licenses, with the granting of such leases or licenses to be subject to a resolution of Council.

Leasing and Licensing of Council Controlled Land Policy

iii. Leases and licenses to not-for-profit community and / or sporting organisations

Council grants leases and licenses to not for profit sporting and community organisations. These typically occur on Community land but may also occur on Operational land. Current examples include: Woollahra Golf Course, Woollahra Park sports facilities, baby health centres and leases over the Drill Hall and Royal Australian Naval Sailing Association (RANSA) sites in Darling Point.

Generally, granting of leases and licenses to not-for-profit sporting and community organisations shall be subject to an expression of interest process with defined selection criteria which shall reflect community benefit and consistency with adopted Council strategies and policies.

It is however recognised that some existing not-for-profit lessees and licensees have strong historical, social and recreational ties to the facilities they use. In some cases, the lessee or licensee may have contributed cash or in-kind to the development of these facilities. Examples of this are the three community gardens and the Colleagues and Easts Rugby Clubs. In such cases, Council may opt to enter into a new lease or license with the incumbent without reference to an expression of interest process. These cases will be subject to a report to Council which outlines the reasons for the continuation of the arrangement with the incumbent.

All leases and licenses to not-for-profit community and sporting organisations shall be subject to a Council resolution and will not be delegated to the General Manager for approval.

iv. Leases of road reserve

In accordance with S153 of the Roads Act, Council may grant leases over unused portions of road reserve to the owner or lessee of land adjacent to the road reserve. In the Woollahra context, these leases are relatively uncommon and have usually been entered into in order to formalise existing encroachments (which are the subject of a separate policy) or to allow for parking of private vehicles on unused portions of road reserve.

Such leases shall be limited to a five year period and will be subject to market assessment and a resolution of Council. Granting of leases over road reserve will not be delegated to the General Manager.

Policy Amendments

Leasing and Licensing of Council Controlled Land Policy

Date	Responsible Officer	Description
February 2024		Original creation

Item No:	R6 Recommendation to Council
Subject:	WOOLLAHRA OVAL 2 & 3 USAGE AGREEMENT WITH CRANBROOK SCHOOL
Authors:	Roger Faulkner, Team Leader - Open Space & Recreation Planning Paul Fraser, Manager Open Space & Trees
Approver:	Tom O'Hanlon, Director Infrastructure & Sustainability
File No:	24/32680
Purpose of the Report:	To address Part B of the Council Resolution dated 8 May 2023, which addresses the future maintenance of Woollahra Oval 2 & 3 following the expiry of the Cranbrook Agreement.
Alignment to Delivery Program:	Strategy 1.1: Provide, promote and facilitate a range of community projects, programs and events that support an inclusive, thriving and sustainable community.

Recommendation:

THAT Council:

- A. Notes the formal agreement between Council and Cranbrook School for the use and maintenance of Woollahra Ovals 2 & 3 expires on Sunday 31 March 2024.
- B. Advises Cranbrook School of the requirement to remove the turf cricket wicket and replace it with a new synthetic turf cricket wicket, as required under Clause 7 of the Project Agreement at least eight weeks before the commencement of the 2024/25 summer cricket season.

Executive Summary:

At the Council meeting on 8 May 2023, approval was granted to extend the agreement with Cranbrook School for the use and maintenance of Woollahra Ovals 2 & 3 until the completion of the 23/24 Summer Cricket Season.

The purpose of this report is to address the Council's resolution, which requires Council staff to propose a plan for managing the sporting fields after the current agreement with Cranbrook School expires on 31 March 2024.

This report seeks Council's approval to request Cranbrook School to replace the existing turf cricket wicket with a single synthetic cricket wicket (which existed prior to the agreement). Council would then resume normal maintenance operations of the sporting fields from 1 April 2024.

Discussion:

At the Finance, Community and Services Committee meeting on 4 March 2019 it was resolved as follows:

- A. *THAT Council enter into an agreement with Cranbrook School whereby:*
 - i. *Cranbrook School installs a turf wicket table at Woollahra 2 & 3 ovals to replace the existing concrete/synthetic wicket.*
 - ii. *Cranbrook School maintains the turf wicket and surrounding field to their required standard throughout the summer cricket season.*
 - iii. *Cranbrook School maintains the sportsfields to Council's required standard throughout the winter sports season.*

- B THAT in recognition of the works outlined at A:*
- i. Council confirms that Cranbrook's current summer (Saturday) usage of the Woollahra 2 & 3 fields continue for a period of three years, subject to requirements for potential closure for capital works as outlined within this report.*
 - ii. Cranbrook School not be charged hire fees for use of Woollahra 2 & 3 on summer Saturdays for a period of three years, commencing in summer 2019/20.*

Following this resolution, Council entered into a non-exclusive Project Agreement (Attachment 1) with Cranbrook School on 29 August 2019 for a period of 3 years, along with options to extend the agreement, for the use of Woollahra Ovals 2 & 3. The agreement required Cranbrook to remove the synthetic turf cricket wicket and replace it with a natural turf wicket area (at the commencement of the agreement).

In April 2022, the Project Agreement was extended until April 2023.

At the Council meeting on 8 May 2023 the following resolution was approved:

- A. THAT Council approve the request from Cranbrook School to extend their Woollahra Oval 2 & 3 usage agreement with Council for a period of 12 months until the completion of the 2023-24 cricket season in April 2024.*
- B. THAT prior to the development of the 2024/25 budget, Council staff put forward a proposal on how Council will manage this facility after the agreement with Cranbrook ends in April 2024.*

Upon expiration of the Project Agreement on 31 March 2024, Council has two options; firstly to reinstate the existing synthetic turf cricket wicket, or secondly to retain the natural turf wicket and take on its maintenance.

With the first option, under Clause 7 of the Project Agreement, Council would instruct Cranbrook to reinstate a concrete wicket covered with synthetic turf at the school's expense at a time to be agreed with the school prior to the commencement of the 2024-25 Cricket Season.

With the second option, Council would retain the natural turf wicket area and take over maintenance responsibilities for the sporting fields, including the turf wicket area. The annual cost for Council to undertake turf cricket wicket maintenance is approximately \$50,000 a year. This would include a spring renovation, preseason turf wicket preparation and 22 weeks of games.

From 1 April 2024, Council would resume normal maintenance responsibilities for the sporting fields, which was the situation that existed prior to the commencement of the Cranbrook Project Agreement in August 2019.

The recommendation from the Council staff is to instruct the School to reinstall a synthetic cricket wicket, mirroring the setup that was in place prior to the Agreement regarding the use of sporting fields. Reinstating the previous infrastructure offers several advantages, including reduced maintenance costs for the Council and the provision of a community asset that can be utilised for both seasonal and casual hire without the necessity of expensive wicket preparation works.

The primary purpose of the Agreement was to facilitate a significant redevelopment of Cranbrook School's main campus, which consequently rendered their primary sports field (referred to as Hordern Oval) unusable for a period spanning approximately four years. With this redevelopment now finalised, their field will be available for their senior cricket use starting from the commencement of the 2024-25 Cricket Season.

Options:

Council may resolve in line with the recommendation/s as included in this report or, Council may choose to resolve in some other manner.

Community Engagement and / or Internal Consultation:

The Council staff have engaged in discussions with representatives from both Cranbrook School and the Eastern Suburbs Cricket Club to address the issues highlighted in this report.

Cranbrook School has expressed approval for the reinstatement of a synthetic cricket wicket, indicating their willingness to continue utilising the sporting fields in accordance with their previous seasonal hire agreements with the Council.

Eastern Suburbs Cricket Club discussed their preference for Council to retain the turf cricket wicket and informally proposed to take over the maintenance of the site. This proposal would involve widening the current cricket wicket area and increasing usage on Saturdays and Sundays. Subsequently, the Cricket Club has informed Council staff that if the synthetic cricket wicket is reinstated, they would be interested in exploring the option of hiring the sporting fields for their girls' team. Council staff are supportive of this use and are committed to further discussions with the Club on the matter.

Additionally, Council's parks staff have been consulted regarding the anticipated maintenance needs for the sporting fields moving forward which reverts to the maintenance practices in place prior to the commencement of the agreement with the school in mid-2019.

Policy Implications:

There are no direct policy implications as a result of this report.

Financial Implications:

Should the proposed recommendation be approved by Council, the maintenance of the sporting fields will revert back to Council's parks maintenance team. These normal operations will be covered by the Council's Operational Budget and maintenance scheduling.

As discussed earlier in this report, there is no capital cost to Council for the reinstatement of the synthetic cricket wicket as this will be the responsibility of Cranbrook School.


Resourcing Implications:

There are no resourcing implications as a result of this report if Council resolves as recommended. The maintenance of the sporting fields will revert back to the maintenance practices prior to the commencement of this agreement.

Conclusion:

The proposed recommendation to reinstate the existing synthetic cricket wicket at Woollahra Oval 2 & 3 sporting fields offers several advantages, including reduced maintenance costs for the Council and the provision of a community asset that can be utilised for both seasonal and casual hire without the necessity of expensive turf wicket preparation works.

Attachments

1. Cranbrook School Project Agreement - Woollahra Oval 2 & 3 - Turf Cricket Wicket Construction & Usage - with correct end date [!\[\]\(f27fcb70c1e5b985e115fc4716d86ff2_img.jpg\)](#) 



Dated

2019

Project Agreement

**Woollahra Park – Cricket Pitch on the Woollahra Ovals 2
and 3**

**Council of the Municipality of Woollahra trading as the Woollahra Municipal
Council (ABN 32 218 483 245)**

Cranbrook School (ABN 79 000 007 723)

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This Usage Agreement is dated 29 AUGUST 2019

Parties:

Council of the Municipality of Woollahra trading as the Woollahra Municipal Council
(ABN 32 218 483 245) of 536 New South Head Road, Double Bay NSW 2028

(Council)

Cranbrook School (ABN 79 000 007 723)
of 5 Victoria Road, Bellevue Hill NSW 2023

(School)

Introduction:

- A Council owns the Land.
- B Woollahra Ovals 2 and 3 form part of the Land.
- C The School wishes to use the cricket pitch on the Woollahra Ovals 2 and 3.
- D The School wishes to commission certain work to construct, install and maintain a turf wicket on the Woollahra Ovals 2 and 3 (**Turf Wicket Works**).
- E Council consents to the School using the cricket pitch on the Woollahra Ovals 2 and 3 and undertaking the Turf Wicket Works and maintenance of playing surface to the Ovals on the terms and conditions set out in this Agreement.

It is agreed:

1. Definitions and interpretation

1.1 Definitions

In this Agreement, unless the context clearly indicates otherwise:

Agreement means this agreement between Council and the School and includes any documents referred to or attached to this agreement.

Commencement means the date this Agreement is executed by both parties.

Confidential Information means all confidential information, material and technology disclosed or provided in any form by any party to any other party in connection with the subject matter of this Agreement.

Corporations Act means the *Corporations Act 2001* (Cth).

Council means the Council of the Municipality of Woollahra trading as Woollahra Municipal Council (ABN 32 218 483 245) and its successors, employees, agents and servants.

Cricket Season means the cricket season for each year until the end of the Term as notified to Council by the School.

Extension Period means a period of six months commencing on the date in accordance with 2(b);

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Holiday Fixtures and Camps means the School's holiday fixtures and camps for each year until the end of the Term as notified to Council by the School.

Land means the land known as Woollahra Park, located between Bellevue Hill, Rose Bay and North Bondi in Sydney, Australia.

Ovals means the Woollahra No 2 and No 3 Ovals located within the Land as shown in the Woollahra Park Plan and where the context requires any associated amenities or buildings.

Permitted Operating Hours means 7am to 6pm.

Permitted Operating Periods means the following days:

- (a) Monday and Tuesday during school hours;
- (b) Monday to Thursday on school days from 3:30pm to 5:30pm; and
- (c) all Fridays and Saturdays during the Cricket Season; and
- (d) all Holiday Fixtures and Camps.

Permitted Use means cricket related activities, including but not limited to cricket training and cricket matches.

School means Cranbrook School (ABN 79 000 007 723) and its successors and where not repugnant to the context its contractors, employees, consultants or other persons engaged in connection with the Turf Wicket Works.

Term as described in Clause 2(a).

Turf Wicket means the turf wicket to be constructed and installed by the School on the Woollahra Ovals 2 and 3 as permitted by this Agreement.

Unauthorised Activities means any activity not authorised by this Agreement or formally authorised by Council.

WHS Legislation means the *Work Health and Safety Act 2011* (NSW) and the *Work Health and Safety Regulation 2017* (NSW), and all applicable codes as amended or replaced from time to time.

Woollahra Park Plan means the plan set out in Schedule 1 of this Agreement.

1.2 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 to **legislation** or a **legislative provision** includes any statutory modification or substitution of that legislation or legislative provision and any subordinate legislation issued under that legislation or legislative provision;
- (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) a reference to a **person** includes a natural person, corporation, statutory corporation, partnership, the Crown or any other organisation or legal entity;
- (i) a reference to a **natural person** includes their personal representatives, successors and permitted assigns;
- (j) a reference to a **corporation** includes its successors and permitted assigns;
- (k) **related** or **subsidiary** in respect of a corporation has the same meaning given to that term in the Corporations Act;
- (l) a reference to a right or obligation of a party is a reference to a right or obligation of that party under this Agreement;
- (m) an **obligation** or **warranty** on the part of 2 or more persons binds them jointly and severally and an obligation or warranty in favour of 2 or more persons benefits them jointly and severally;
- (n) 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;
- (o) **including** and **includes** are not words of limitation;
- (p) the words **at any time** mean at any time and from time to time;
- (q) a reference to a time is to that time in New South Wales;
- (r) a word that is derived from a defined word has a corresponding meaning;
- (s) **monetary amounts** are expressed in Australian dollars;
- (t) the singular includes the plural and vice-versa;
- (u) words importing one gender include all other genders; and
- (v) a reference to a thing includes each part of that thing.

1.3 Construction

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.

2. Term

2.1 Initial Term

- (a) Unless terminated earlier, this Agreement operates for a period from Commencement until the conclusion of the 2020/2021 *(NB this is an error and should read 2021/2022)* Combined Associated School's cricket season.
- (b) This Agreement is extended by an Extension Period starting on the day after the Term expires (or if in an Extension Period, the end of the current Extension Period) if the School notifies the Council in writing that it requires an Extension Period (or further Extension Period) during the last month of the Term (or Extension Period).

2.2 Synthetic Surface installation at the Ovals

- (a) The parties acknowledge and agree that if the Ovals are selected as the site for synthetic surface installation by Council, this agreement will be terminated on a date no earlier than 12 months from the date that Council provides written notice to the School of its intention to install a synthetic surface, which is to be no earlier than the conclusion of the 2021 Combined Associated Schools cricket season.

3. Turf Wicket Works

3.1 Construction and installation of the Turf Wicket

- (a) Council consents to the construction and installation by the School of a Turf Wicket on the Ovals.
- (b) The School shall engage a contractor to:
 - (i) construct and install the Turf Wicket to a Combined Associated School's Sports Competition standard; and
 - (ii) undertake any drainage remediation works necessary to install sand slits.
- (c) The Turf Wicket shall be installed on the location shown on the drawing set out in Schedule 2 of this Agreement.
- (d) Council grants to the School a continued right of access to those parts of the Land reasonably required by the School for the performance of the Turf Wicket Works on the Ovals.

3.2 Maintenance of the Turf Wicket and Playing Surface

- (a) The School shall maintain the Turf Wicket and the playing surface of the Ovals to a Combined Associated School Sports Competition standard from the date the Turf Wicket is completed until the end of the Term.
- (b) Council grants to the School a continued right of access to those parts of the Land reasonably required by the School in order to maintain the Turf Wicket and the playing surface of the Ovals.
- (c) Council agrees that the School shall not be liable to maintain any amenities or building located in or around the Ovals nor any other part of Woollahra Park.

4. Usage of the Ovals and the Turf Wicket

4.1 Exclusive use of the Turf Wicket

- (a) Council grants to the School exclusive use of the Turf Wicket during the Permitted Operating Periods at the Permitted Operating Hours.
- (b) The Permitted Operating Periods for the year 2019 are set out in the calendar at Schedule 3 of this Agreement. The School shall, for each year of the Term following 2019, notify Council of the Permitted Operating Periods as soon as practicable.
- (c) The School may notify Council if it does not use the Turf Wicket for any reason (other than as a result of inclement weather) during the Permitted Operating Periods.
- (d) The parties agree that no fee is payable by the School to Council for the use of the Turf Wicket during the Permitted Operating Periods for the duration of the Term.

4.2 Usage by the School of the Ovals

- (a) Subject to any separate agreement pursuant to clause 4.2(d) Council grants the School a right to use the Ovals for the Permitted Use during the Permitted Operating Periods for the duration of the Term.
- (b) Council grants the School permission to dress the Ovals to achieve the Combined Associated School's Sports Competitions Standards for use during the Permitted Operating Periods.
- (c) Any other usage of the Ovals by the School other than for the Permitted Use during the Permitted Operating Periods shall be managed through Council's existing arrangements.
- (d) If Council intends to use the Ovals, or permit a third party to use the Ovals (including granting such third parties exclusive access) during the Permitted Operating Periods, then the Council must provide the School with no less than 2 calendar months' notice and otherwise advise the School as soon as practicable after it has formed this intention. Upon such notice the parties must negotiate in good faith to agree who may use the Ovals on the relevant day with a view to achieving the most desirable outcome balancing the obligations of Council under this Agreement as against community needs.

4.3 Other terms

Subject to this Agreement, the following terms apply to this Agreement:

- (a) Sports Field Hire terms:
 - (i) General conditions of hire; and
 - (ii) Indemnity.
- (b) In respect of the change rooms, Woollahra Council Venues – Conditions of Hire and Declaration:
 - (i) Emergency & Evacuation Procedure;
 - (ii) Use of Venue;
 - (iii) Cleaning and Waste Management;
 - (iv) Liquor license & serving of Liquor;

- (v) Observance of venue Hire Period;
- (vi) Noise Management;
- (vii) Vehicle Management;
- (viii) Damages and Repairs; and
- (ix) Insurance.

5. Community use of the Ovals

Council agrees that preparation, maintenance and any remediation required to the Ovals arising as a result of:

- (a) unauthorised activities or vandalism;
- (b) usage of the Ovals by parties other than the School in excess of the third party usage of the Ovals agreed between Council and the School or the School's contractor for the Turf Wicket Works; and
- (c) use by parties other than the School against the School's written recommendation (acting reasonably),

is at Council's own cost and risk.

6. Protection and Security

- (a) The School will work with Council on agreed protection measures for the Turf Wicket in order to avoid damage or vandalism.
- (b) Should the Turf Wicket be damaged in any way, other than when the School is using it, then the parties will negotiate in good faith as to which should be liable for the cost of remediating the Turf Wicket.

7. Reinstatement

- (a) Council may, by issuing a written notice to the School at least 90 days before expiry of the Term, request the School to reinstate a concrete and synthetic wicket as is currently installed on the Ovals.
- (b) If Council fails to issue a notice in accordance with subclause 7(a), the ongoing maintenance and responsibility for the Turf Wicket shall be transferred to Council on expiration of the Term.

8. Confidential information

8.1 Obligation

Subject to this clause, each party must maintain in confidence all Confidential Information and ensure that the Confidential Information is kept confidential.

8.2 Exceptions to confidentiality

A party (**Beneficiary**) may reveal Confidential Information of another party (**Provider**):

- (a) if required by law or by any stock exchange to disclose, in which case the Beneficiary must immediately notify the Provider of the requirement and must take lawful steps and permit the Provider to oppose or restrict the disclosure to preserve, as far as possible, the confidentiality of the Confidential Information;
- (b) if the Confidential Information is in or enters the public domain for reasons other than a breach of this Agreement;
- (c) if the Confidential Information is disclosed to the Beneficiary by a third party legally entitled to disclose that information and who is not under an obligation of confidentiality to the Provider; or
- (d) to its professional advisers to obtain professional advice.

8.3 Survival of clause

This clause 8 will survive the termination of this Agreement.

9. WHS

- (a) The parties agree and acknowledge that if the Turf Wicket Work commissioned by the School is a "Construction Project" for the purposes of the WHS Legislation the School is the Principal Contractor for that Construction Project. In its capacity as a Principal Contractor the School may, at its discretion, engage another PCBU as the Principal Contractor for the performance of the Construction Project.
- (b) Subject to the operation of clause 9(a) the School must itself discharge or ensure its agents, employees, contractors discharges the Council's obligations under the WHS Legislation so as not to cause the Council to be in breach of its obligations under the WHS Legislation.
- (c) The School indemnifies the Council against any reasonable and mitigated loss, costs and damages, including reasonable lawyers' fees and expenses on an indemnity basis suffered or incurred by the Council arising out of any failure by the School to comply with its obligations and carry out its duties under this clause.

10. Insurance

The School must:

- (a) maintain with reputable insurers, public liability insurance on terms acceptable to the Council in respect of the activities the Agreement permits and/or obligates the School to undertake for not less than \$20 million, noting the interests of Council as the owner of the Land;
- (b) maintain or procure that its contractors maintain, insurances which are required by law including insurance under any relevant legislation for the compensation of workers for an employer's full liability under law;
- (c) in respect of the insurances required by this clause:
 - (i) pay each premium on or before the due date;
 - (ii) at the request of the Council, provide the Council with certificates of currency (or such other evidence as the Council reasonably requires) in respect of the insurance required by this clause; and

- (iii) immediately rectify anything which might prejudice any insurance and reinstate the insurance if it lapses; and
- (iv) notify the Council immediately when an event occurs in respect of the terms of this agreement which gives rise or might give rise to a claim under or which could prejudice or cancel a policy of insurance.

11. Risk, release and indemnity

11.1 Release

- (a) The School unconditionally releases the Council from all claims, suits, demands, actions or proceedings (whether at law, in equity or arising under any statute) arising out of or in connection with an act, default or omission of the School or any of its agents, employees, contractors and invitees.
- (b) The School agrees not to sue or make any claim or demand against the Council in respect of matters covered by this release except to the extent that the Council has caused or contributed to such claim, action, damage, loss, liability, cost or expense by its wrongful act, negligence or default.

11.2 Indemnity by Cranbrook

The School will indemnify Council from and against all actions, claims, costs, losses, expenses and damages (including the costs of defending or settling any action or claim) in respect of:

- (a) loss of, loss of use of, or damage to property of the Council; or
- (b) personal injury (including death) or illness to any person; or
- (c) loss of, loss of use of, or damage to any property;

resulting from or by reason of anything done or omitted to be done by School during the Permitted Operating Period arising out of activities defined in this Agreement.

The School's liability to indemnify the Council is reduced proportionally to the extent that a negligent act or omission of the Council or its employees has contributed to the injury, damage or loss.

11.3 Continuing indemnity

Indemnity of the School contained in this Agreement is a continuing obligation of the School and remains in full force and effect after the termination of this Agreement and a separate and independent obligation of the School for a period of 6 years following termination of this Agreement.

11.4 Council not responsible

Council is not responsible to the School for any theft, loss or damage to the goods or other items of the School or its agents, employees, contractors and invitees while on the Land.

Council has no duty, obligation or liability in relation to the design or construction of the installation of the Turf Wicket. The School acknowledges and confirms that Council is relying upon the skill and judgment of School in relation to the design and construction of the Turf Wicket and is in no way relying upon the skill and judgment of Council.

12. Assignment

This Agreement is personal to each party and neither party may assign the rights or benefits of this Agreement to any person except:

- (a) to a related body corporate, after obtaining the consent of the other party, which the other party must not withhold if it is reasonably satisfied that the related body corporate has sufficient assets, resources and expertise to perform all of the assigning party's obligations under this Agreement; or
- (b) to any other person, with the prior consent of the other party, which the other party may give, give conditionally or withhold in its absolute discretion.

13. Termination

An aggrieved party may terminate this Agreement, by notice in writing to the other, if the other party breaches any provision of this Agreement and fails to remedy such breach within 21 days (or such longer period as the parties may agree) after the date that the aggrieved party notifies the other party in writing of the relevant breach.

14. Warranties of capacity

14.1 General warranties

Each party warrants to each other party that:

- (a) this Agreement creates legal, valid and binding obligations, enforceable against the relevant party in accordance with its terms; and
- (b) unless otherwise stated, it has not entered into this Agreement in the capacity of trustee of any trust.

14.2 Power of attorney

If an attorney executes this Agreement on behalf of any party, the attorney declares that it has no notice of the revocation of that power of attorney.

15. General provisions

15.1 Entire agreement

This Agreement constitutes the entire agreement between the parties regarding the matters set out in it and supersedes any prior representations, understandings or arrangements made between the parties, whether orally or in writing.

15.2 Variation

This Agreement must not be varied except by a later written document executed by all parties.

15.3 Waiver

A right created by this Agreement cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right does not constitute a waiver of that right, nor will a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.

15.4 Further assurances

Each party must promptly execute all documents and do everything necessary or desirable to give full effect to the arrangements contained in this Agreement.

15.5 Governing law and jurisdiction

- (a) The laws applicable in New South Wales govern this Agreement.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

15.6 Severance

If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this Agreement without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

15.7 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.

15.8 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.

15.9 Counterparts

This Agreement may be executed in any number of counterparts. All counterparts taken together constitute one instrument. Delivery of this Agreement by email constitutes an effective mode of delivery.

15.10 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.

15.11 Good faith

Each party must act in good faith towards all other parties and use its best endeavours to comply with the spirit and intention of this Agreement.

15.12 Legal expenses

Each party must pay its own legal costs and disbursements in connection with the negotiation, preparation, execution and carrying into effect of this Agreement.

Execution page

Executed as an agreement

Executed by Council of the Municipality of Woollahra trading as the Woollahra Municipal Council (ABN 32 218 483 245) by its duly authorised officer pursuant to a Resolution of Woollahra Council passed on in the presence of:

Signature of authorised officer

Name of authorised officer

DIRECTOR TECHNICAL SERVICES

Capacity

Signature of witness

Name of witness (Print)

4-536 New South Head Rd
Double Bay

Usual address

Executed by Cranbrook School (ACN 000 007 723) in accordance with section 127 of the Corporations Act 2001:

Signature of Director

Name of Director

Signature of Director/Secretary

Name of Director/Secretary

Schedule 1 – Woollahra Park Plan



S:8791252_1 HHG

Schedule 2 – Drawing

Refer following page. Exact dimensions to be confirmed on site.

S:8791252_1 HHG

Schedule 3 – Calendar

ACTIVITY	DATES	DAYS	TIMES
Pre-Season Training	September – October	2 x Weekdays - *Tues + *Thurs	3:15pm - 5:30pm
Season Training	October – April	3 x Weekdays - *Tues + *Wed + *Thurs	3:15pm - 5:30pm
Competition Matches	October – March	Fridays	7:00am - 7:00pm
Competition Matches	October – March	Saturdays	7:00am - 6:00pm
School Holiday Camps	September – October	*One Week (Mon-Fri)	7:00am - 6:00pm
School Holiday Fixtures	January	*One Week (Mon-Fri)	7:00am - 6:00pm

*Days to be confirmed with Woollahra Municipal Council as soon as practicable and no less than four weeks prior to commencement of Activity.

S:9038757_5 HHG

Woollahra Ovals 2 & 3

Indicative Turf Wicket Plan

Rev C / 26.02.2019

*All dimensions are approximate and are to be confirmed on Site.



Item No: R7 Recommendation to Council
Subject: **CONSIDERATION OF TENDER RESPONSES FOR THE LEASE & OPERATION OF DUNBAR HOUSE - TENDER NO. SC7377**
Author: Jim Allison, Senior Property Officer
Approvers: Zubin Marolia, Manager Property & Projects
Tom O'Hanlon, Director Infrastructure & Sustainability
File No: 24/19475
Purpose of the Report: To consider the tender for the lease and operation of Dunbar House
Alignment to Delivery Program: Strategy 11.2: Secure Council's financial position.

Recommendation:

THAT Council:

- A. Pursuant to section 178(1)(b) of the Local Government Regulations 2005, declines the tender submitted by Athol Hall Pty Ltd on the basis that Athol Hall proposes that the lease be entered into by a different entity rather than by Athol Hall itself;
- B. Enters into negotiations with the three equal shareholders in Athol Hall Pty Ltd, namely Christopher Drivas, Jacqueline Worrall and Philip Beauchamp with a view to agreeing lease terms with a newly formed entity in the form envisaged by the Request for Tenders;
- C. To satisfy section 178(4) of the Local Government Regulation 2021, declares that its reason for declining to invite fresh tenders and to negotiate with the persons identified at recommendation (B) is that, while no tender was received that was both capable of acceptance without negotiation and provided best commercial return for the Council, a submission was received that with negotiation is likely to be an offer capable of acceptance by Council;
- D. Provided that negotiations with the persons identified at recommendation (B) produce an agreement that is the equal of, or better than the lease offer contained in Athol Hall Pty Ltd's tender, authorises the General Manager to execute all legal documents required to enter into the lease.

Executive Summary:

Council invited tenders from experienced commercial operators to lease, equip, operate and manage Dunbar House in Robertson Park, Watsons Bay, which has been vacant since June 2023 when the previous lease of the premises expired. The invitation to tender followed a previous invitation which only produced two non-conforming responses.

The tender documentation included a draft lease for an initial term of seven years plus a five year option term, with a commencement rent of \$100,000 per annum plus GST. The relatively low commencement rent was offered as a comfort and incentive to tenderers as they considered initial capital works and other operational start-up costs. Tenderers were invited to submit rental offers for the second year of the term, with the draft lease specifying that the rent would thereafter increase annually by 4%. The draft lease further specified that the rent would be reviewed to market in the event of the option term being taken up.

Only one response was received to the invitation. This was from Athol Hall Pty Ltd which operates function centres and restaurants within a group known as The Venues Collection. A second year rent of \$150,000 plus GST was proposed, with the lease to be taken by a proprietary limited entity set up for that purpose by Athol Hall Pty Ltd.

Although the proposal that the lease be taken by another newly formed entity is acceptable in principle provided the shareholders, guarantors and their financials remain the same, legally Council is bound to accept the tender only from the entity that submitted the tender. To overcome this situation, it is possible for Council to reject the tender received from Athol Hall and enter into negotiations with these three reputable shareholders of this private entity that could lead to an offer that can be accepted.

Discussion:

Dunbar House restaurant and function facility is located at 9 Marine Parade in Robertson Park lands in Watsons Bay. The premises are adjacent to Sydney Harbour with panoramic views. They were previously occupied by The Tearoom Pty Ltd under a lease which expired on 30 June 2023.

Council initially invited tenders to lease, equip, operate and manage Dunbar House in June 2023. Two non-conforming responses were received and in September 2023, the General Manager declined both and authorised the invitation of fresh tenders. Several key changes were made to the tender invitation to make it more attractive to potential tenderers:

- An initial lease term of seven years was offered (as opposed to the five years offered in the previous tender).
- A relatively low first year rent of \$100,000 was offered, aimed at providing comfort and incentive to potential tenderers as they considered initial capital works and other operational start-up costs.
- The offered lease provided for fixed annual rent increase of 4% (as opposed to increases based on the Consumer Price Index offered in the previous tender) – this was intended to provide an element of certainty to tenderers in respect of ongoing costs.
- The lease's 'demolition clause', whereby Council is entitled to terminate the lease in the event of an intention to demolish or substantially alter the premises, was amended so as to require the giving of 24 months' notice (as opposed to the 6 months contained in the previous tender). This was also intended to provide an element of security to potential tenderers (albeit that it is considered unlikely that Council would consider demolition during the term of the lease).
- The clause within the lease requiring the lessee to pay Land Tax if it ever becomes due was deleted. Again, this was intended to provide an element of security to potential tenderers, although the prospect of Land Tax ever becoming payable by Council is considered to be remote.
- To provide further security to potential tenderers, improved information about the financial outgoings which the lessee will be obliged to pay was provided within the tender documentation.

Fresh tenders were invited in accordance with Local Government Act (General) Regulations in November 2023 with a closing date of 20 December 2023. Assistance was provided by retail food consultants, Titanium Food and the Request for Tenders (RFT) was advertised in the Sydney Morning Herald on 7 November 2023, the Wentworth Courier on 8 November 2023, Council's website and on social media. In addition, a notice advertising the RFT was displayed at the premises. The RFT was run through the tender procurement platform, VendorPanel.

The RFT documentation included a draft lease for an initial term of seven years plus a five year option term, with a commencement rent of \$100,000 per annum plus GST. Potential tenderers were invited to submit rental offers for the second year of the term, with that rent thereafter increasing by 4% annually. The draft lease specified that the rent would be reviewed to market in the event of the option term being taken up.

The invitation to tender specified that the Premises are to be leased unfurnished and "as is". Tenderers were asked to make their own assessment as to condition of the premises and any works required to meet required standards. Nothing in the RFT detracts from or affects the successful Tenderer's obligations to ensure that it carries out the works required to meet required standards.

Subject to the Conditions of Tender, the RFT indicated that the Council will welcome and give favorable consideration to any innovative proposal in relation to upgrading and refurbishment works. Details of any fit out and associated capital investment of the kitchen area and/or the remainder of the premises agreed to be undertaken by the successful Tenderer will be inserted in the Lease as an obligation.

Pursuant to the Retail Leases Act 1994 (NSW) a draft disclosure statement was included at Attachment 4 of Part E of the RFT. The disclosure statement includes important information about the premises, the lease and the lessee's financial obligations.

The RFT specified that a mandatory pre-tender meeting was to be held on site at the premises on 29 November 2023 and representatives from 15 different potential bidders attended. Questions raised by attendees were answered and a record of the questions and answers was posted on Vendor Panel.

At one attendee's request, a further opening of the premises was arranged for 13 December 2023, but no potential bidders attended.

The RFT closed at 3pm on Wednesday 20 December 2023. One response was received:

Tenderer	Tendered annual rents (1st year set at \$100,000 plus GST)	Initial refurbishment commitment
Athol Hall Pty Ltd	2 nd year - \$150,000 plus GST (thereafter rising by 4% per annum) (rent to be reviewed to market if the option term is taken up)	\$200,000

In its proposal, Athol Hall Pty Ltd indicated that it currently operates several high end function centres and restaurants within a group known as The Venues Collection and proposed that Dunbar House be leased and operated through a proprietary limited entity formed for that specific purpose.

The tender evaluation panel comprised Zubin Marolia, Manager – Property and Projects, Paul Fraser, Manager – Open Space and Jim Allison, Senior Property Officer

Council has previously resolved that a probity adviser should be included during the tender assessment stage for high risk, high value or sensitive projects. Joshua Gregory, Procurement & Contracts Coordinator acted as probity adviser.

Prior to the closure of the RFT, the tender evaluation panel agreed on the selection criteria weightings in the confidential attachment 1.

The tender evaluation panel carried out an initial evaluation of the one response received with the assistance of Alessandro Panetta from consultants, Titanium Food. The proposal that the lease be taken by a newly formed entity was noted but it was deemed that the response otherwise conformed to the requirements of the RFT.

The tender was then assessed in detail in accordance with the selection criteria and the tenderer was given a preliminary score against each criteria.

Representatives of the tenderer were then invited to an interview with the tender evaluation panel. That interview took place on 18 January 2024 and having asked question of the tenderer's representative, the panel concluded that no change should be made to the preliminary score that had been awarded against each selection criteria.

The scores as evaluated are provided in the confidential Annexure 1. This information is considered confidential in line with Section 10A(2)(d)(i) of the NSW Local Government Act 1993 on the basis that it is 'commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it'.

The panel considers that the assessed scores against each selection criteria are such as to make the tender acceptable, save for the proposal that the lease be taken by a newly formed entity. The panel notes the extensive experience that the tenderer has in operating similar high end venues. The tenderer submitted details of its operations at 6 other function centres and 3 restaurants within Sydney's CBD, Sydney North and Greater Sydney. The function centres range in capacity from 150 to 5,000 patrons and include several located in heritage buildings, most notably Campbell's Stores in the Rocks. Landlord referees were provided in respect of 3 of these venues and all spoke highly of the professionalism with which the operations appear to be conducted.

Options:

As per clause 178 of the Local Government (General) Regulation 2021, Council must either:

- (a) accept the tender submission that, having regard to all the circumstances, appears to it to be the most advantageous, or
- (b) decline to accept any of the tender submissions.

The one tender received is problematic. The tenderer (Athol Hall Pty Ltd) and The Venues Collection group is considered to have the skills, experience and financial viability to lease and operate a function centre and restaurant at Dunbar House. However the same cannot necessarily be said for a newly formed entity; in particular, the new entity is likely to have no assets.

Athol Hall has proposed three guarantors to the lease, namely Christopher Drivas, Jacqueline Worrall and Philip Beauchamp. These are the three equal shareholders in Athol Hall. Christopher Drivas and Jacqueline Worrall are also directors of Athol Hall whilst Philip Beauchamp owns the business name of The Venues Collection, of which all three are directors. All three have been subject to a satisfactory financial check.

Given the circumstances, it is recommended that Council enters into negotiations with Christopher Drivas, Jacqueline Worrall and Philip Beauchamp with a view to agreeing terms for a lease in the form originally envisaged by the Request for Tenders. It is further recommended that if those negotiations produce an agreement that is the equal of, or better than the lease offer contained in Athol Hall Pty Ltd's tender, the General Manager be authorised to execute all legal documents required to enter into the lease. This is considered to be a better option at this stage than calling for fresh tenders, noting that Dunbar House has now been the subject of two RFTs with no wholly conforming tender having been received, and is currently vacant.

Community Engagement and / or Internal Consultation:

Consultations about the tender process were undertaken with Council's Manager – Open Space, who also sat on the Tender Evaluation Panel. The RFT was advertised as detailed above and a Notice advising of the RFT was placed on the premises. In the event that Council resolves to offer a lease, a Notice advising of that intention will also be placed on the premises.

Policy Implications:

There are no policy implications as a result of this report.

Financial Implications:

The continued vacancy at Dunbar House represents an annual financial loss to Council. Agreement of a lease will see an immediate annual income of \$100,000, rising to \$150,000 (or such other amount as may be negotiated) after 12 months and thereafter by 4% annually.

The tenderer has provided recent Financial Statements for Athol Hall Pty Ltd and the linked company, Bay 9 CS Pty Ltd, both of which show healthy and rising profits. However, it is noted that a newly formed entity with no prior financial track record is proposed as the lessee and operator. The tenderer has also produced a detailed Business Plan for Dunbar House and any eventual lessee will be required to provide a bank guarantee for an amount equivalent to four months' of the initial rent plus outgoings. The tenderer has also offered up three guarantors for the lease, all of whom have been the subject of a satisfactory financial background check.

Resourcing Implications:

Property & Projects staff will manage the process of negotiation and completing any new lease. They will be assisted by the external lawyers that prepared the draft lease that was included as part of the tender documentation.

Conclusion:

Although only one tender was received, the tenderer's operational and financial capabilities are considered to be very strong. The tenderer has supplied excellent references and is considered to be a 'good fit' for the heritage asset that is Dunbar House. The tenderer has demonstrated extensive experience of running high end function centres and restaurants out of heritage buildings. However, the proposal that the lease be taken by a newly formed entity effectively renders the tender non-compliant.

It is considered that there is a good chance of negotiating satisfactory lease terms with the directors of the tenderer, Athol Hall Pty Ltd (Christopher Drivas and Jacqueline Worrall) and the owner of the business name The Venues Collection (Philip Beauchamp). This is considered to be a better option than calling for fresh tenders.

Attachments

1. Confidential attachment - Tender scoring - Dunbar House - SC7377 (*circulated under separate cover*) - **Confidential**

Political Donations: Matters to be considered by Councillors at Council and/or Committee Meetings

