

# CUMBERLAND CITY COUNCIL

## Council Meeting

*Wednesday, 2 September 2020 at  
6:30pm*

Cumberland City Council Chambers

Merrylands Service Centre, 16 Memorial Avenue, Merrylands

## Councillor Contact Details

### Granville Ward

Clr Steve Christou (Mayor)	0419 651 187	Steve.Christou@cumberland.nsw.gov.au
Clr Joseph Rahme	0418 995 471	Joseph.Rahme@cumberland.nsw.gov.au
Clr Ola Hamed	0405 070 007	Ola.Hamed@cumberland.nsw.gov.au

### Greystanes Ward

Clr Eddy Sarkis (Deputy Mayor)	0418 306 918	Eddy.Sarkis@cumberland.nsw.gov.au
Clr Greg Cummings	0417 612 717	Greg.Cummings@cumberland.nsw.gov.au
Vacant	-	-

### Regents Park Ward

Clr Ned Attie	0419 583 254	Ned.Attie@cumberland.nsw.gov.au
Clr George Campbell	0409 233 315	George.Campbell@cumberland.nsw.gov.au
Clr Kun Huang	0418 911 774	Kun.Huang@cumberland.nsw.gov.au

### South Granville Ward

Clr Paul Garrard	0414 504 504	Paul.Garrard@cumberland.nsw.gov.au
Clr Tom Zreika	0400 805 303	Tom.Zreika@cumberland.nsw.gov.au
Clr Glenn Elmore	0418 459 527	Glenn.Elmore@cumberland.nsw.gov.au

### Wentworthville Ward

Clr Michael Zaiter	0418 432 797	Michael.Zaiter@cumberland.nsw.gov.au
Clr Suman Saha	0419 546 950	Suman.Saha@cumberland.nsw.gov.au
Clr Lisa Lake	0418 669 681	Lisa.Lake@cumberland.nsw.gov.au

For information on Council services and facilities please visit [www.cumberland.nsw.gov.au](http://www.cumberland.nsw.gov.au)



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## ORDER OF BUSINESS

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- 1 Opening Prayer / Acknowledgement of Country / National Anthem**
- 2 Notice of Live Streaming of Council meeting**
- 3 Apologies / Requests for Leave of Absence**
- 4 Declarations of Pecuniary & Non Pecuniary Conflicts of Interest**
- 5 Confirmation of Previous Minutes**  
C09/20-531 Minutes of the Ordinary Meeting of Council - 19 August 2020 .....5
- 6 Mayoral Minutes**  
Nil
- 7 Public Forum / Presentation of Petitions**
- 8 Items Resolved by Exception**
- 9 Reports to Council**  
**General Manager**  
Nil  
**Director Community and Organisation Development**  
Nil  
**Director Finance & Governance**  
C09/20-532 Review of Property Policy.....25  
C09/20-533 Adoption of New Model Code of Conduct & Procedures for the  
Administration of the Code of Conduct ..... 37  
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**Director Works & Infrastructure**  
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- 10 Reports of Council Committees**  
C09/20-539 Audit, Risk and Improvement Committee - Draft Minutes of  
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**11 Motions Pursuant to Notice**

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**12 Notices of Rescission**

Nil

**13 Questions on Notice**

Nil

**14 Closed Session Reports**

C09/20-542	Tender Evaluation Report - Supply, Installation and Maintenance of Bus Shelters (Negotiation)
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*Note: Included in Closed Council in accordance with Section 10A(2)(d)(ii) of the Local Government Act as the information involves information that would, if disclosed, confer a commercial advantage on a competitor of the council.*

C09/20-543	Tender for the Receipt & Processing of Recyclable Material - T-2020-006 - Negotiation Outcome
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*Note: Included in Closed Council in accordance with Section 10A(2)(d)(ii) of the Local Government Act as the information involves information that would, if disclosed, confer a commercial advantage on a competitor of the council.*

C09/20-544	Mixed Solid Waste Processing Agreement Extension
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*Note: Included in Closed Council in accordance with Section 10A(2)(d)(ii) of the Local Government Act as the information involves information that would, if disclosed, confer a commercial advantage on a competitor of the council.*

C09/20-545	Proposed Sale and Future Redevelopment of 13 John Street, Lidcombe
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*Note: Included in Closed Council in accordance with Section 10A(2)(c) of the Local Government Act as the information involves information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.*

C09/20-546	Outcome of Expression of Interest Process - Lease over Hyland Road Reserve, Greystanes
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*Note: Included in Closed Council in accordance with Section 10A(2)(c) of the Local Government Act as the information involves information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.*

**15 Other / General Matters****16 Close**

Item No: C09/20-531

## **MINUTES OF THE ORDINARY MEETING OF COUNCIL - 19 AUGUST 2020**

Responsible Division:

Finance & Governance

Officer:

Director Finance & Governance

### **RECOMMENDATION**

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**That Council confirm the minutes of the Ordinary Meeting of Council held on 19 August 2020.**

### **ATTACHMENTS**

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1. Draft Minutes - 19 August 2020 [↓](#)



DOCUMENTS  
ASSOCIATED WITH  
REPORT C09/20-531

Attachment 1

Draft Minutes - 19 August 2020



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**Minutes of the Council Meeting 19 August 2020**

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**Present:**

Steve Christou (Mayor)	Councillor
Eddy Sarkis (Deputy Mayor)	Councillor
Ned Attie	Councillor
George Campbell	Councillor (via web conferencing)
Greg Cummings	Councillor
Glenn Elmore	Councillor
Paul Garrard	Councillor
Ola Hamed	Councillor (via web conferencing)
Kun Huang	Councillor
Lisa Lake	Councillor
Joseph Rahme	Councillor (arrived 6:32pm)
Suman Saha	Councillor
Michael Zaiter	Councillor (arrived 6:37pm)
Tom Zreika	Councillor
Hamish McNulty	General Manager
Melissa Attia	Director Community & Organisation Development
Daniel Cavallo	Director Environment & Planning
Peter Fitzgerald	Director Works & Infrastructure
Richard Sheridan	Director Finance & Governance

**Also Present:**

Charlie Ayoub	Executive Manager Corporate Services
Colin McFadzean	General Counsel
Carol Karaki	Senior Coordinator Governance and Civic Events
Olivia Shields	Senior Governance Officer
Monica Shenouda	Governance Officer

The Mayor, Councillor Christou declared the meeting open at 6:30pm.

**Opening Prayer**

The opening prayer was read by Reverend Bob Dennis from Merrylands Baptist Church.

**Acknowledgement of Country**

The Mayor, Councillor Christou read the following Acknowledgement of Country:

*"I would like to acknowledge the traditional owners of this land – the Darug People, and pay my respects to their elders past, present and emerging."*

**National Anthem**

At this point in the meeting the Mayor, Councillor Christou asked all of those in attendance to stand for the playing of the Australian National Anthem.

**Notice of Live Streaming of Council Meeting**

The Mayor, Councillor Christou advised that the Council meeting was being streamed live on Council's website and members of the public must ensure their speech to the Council is respectful and use appropriate language.

**Apologies/Leave of Absence**

Nil

**Declarations of Pecuniary & Non Pecuniary Conflicts of Interest**

Councillor Zreika declared a non-pecuniary, less than significant interest in Item C08/20-524 as he has property interests in the area however they are not impacted by the changes.

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**Confirmation of Minutes**

**Min.785          C08/20-514 Minutes of the Ordinary Meeting of Council - 5 August 2020**

**Resolved (Sarkis/Elmore)**

That Council confirm the minutes of the Ordinary Meeting of Council held on 5 August 2020.

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**Min.786          MM08/20-36 Mayoral Minute – Passing of George Parry**

**Resolved (Christou)**

That Council

1. Notes with sadness the passing of George Parry, and sends our condolences to Mr Parry's family, his friends, and former teammates;
2. Observe a minute's silence to honour the life of Mr Parry, including his great achievements and contributions to the Cumberland City Council Community.

**Carried Unanimously**



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**Min.787      MM08/20-37 Mayoral Minute - Sponsorship of the Western Sydney Academy of Sport****Resolved (Christou)**

That Council endorse a partnership with the Western Sydney Academy of Sport via a sponsorship arrangement and that \$7,500 be allocated from a funding source to be identified by Council.

**Carried Unanimously**

Councillor Rahme left the Meeting at 6:39pm and returned to the Meeting at 6:43pm during the consideration of this item.

Councillor Hamed left the Meeting at 6:42pm during the consideration of this item.

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**Min.788      MM08/20-38 Mayoral Minute - Response to Joint Statement Issued on Council's Economic Statement****Resolved (Christou)**

That Council endorse the Mayoral Minute.

The Motion moved on being Put was declared CARRIED on the casting vote of the Mayor.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion:                      Attie, Christou, Garrard, Rahme, Sarkis, Zaiter and Zreika.

Councillor(s) Against the Motion:              Campbell, Cummings, Elmore, Hamed, Huang, Lake and Saha.

Councillor Hamed returned to the Meeting at 6:52pm during the consideration of this item.

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**Min.789      Matter of Urgency – Councillor Campbell****Resolved (Campbell/Saha)**

That in accordance with Clause 9.3(b) of the Cumberland City Council Code of Meeting Practice, Standing Orders be suspended to permit the Matter of Urgency in relation to the COVID-19 pandemic.

The Motion moved by Councillor Campbell seconded by Councillor Saha on being Put was declared CARRIED.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Attie, Campbell, Christou, Cummings, Elmore, Hamed, Huang, Lake, Rahme, Saha, Sarkis, Zaiter and Zreika.

Councillor(s) Against the Motion: Garrard

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**Min.790 Matter of Urgency – COVID-19 Pandemic**

**Motion (Campbell/Saha)**

That Council place posters/corflutes in suitable places of high pedestrian traffic across the LGA in the top few languages appropriate to each suburb to warn non-English-speaking people of how to avoid the spread of Covid-19. The posters may be copied from the following NSW Health website:

<https://www.health.nsw.gov.au/Infectious/covid-19/Pages/translated-resources.aspx#physical>

The Motion moved by Councillor Campbell seconded by Councillor Saha on being Put was declared LOST.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Campbell, Elmore, Hamed, Huang, Lake and Saha.

Councillor(s) Against the Motion: Attie, Christou, Cummings, Garrard, Rahme, Sarkis, Zaiter and Zreika.

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**Min.791 Resumption of Standing Orders**

**Resolved (Sarkis/Cummings)**

That in accordance with Clause 8.2 of the Code of Meeting Practice, Council resume the normal order of business.

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**Public Forum:**

**Speakers on Items on the Council Meeting Agenda**

Speaker	Item #	Suburb
Ms Alaine Roff	C08/20-524 Cumberland Development Control Plan - Post Exhibition Report on New Planning Controls for Cumberland City	Sydney
Mr Arthur Moses	C08/20-524 Cumberland Development Control Plan - Post Exhibition Report on New Planning Controls for Cumberland City	Westmead

Speaker	Item #	Suburb
Mr Rob Luck	C08/20-524 Cumberland Development Control Plan - Post Exhibition Report on New Planning Controls for Cumberland City	Merrylands
Mr Andrew Moss	C08/20-525 NSW Public Spaces Legacy Program	Paddington
Mr Bruce Ashley	C08/20-525 NSW Public Spaces Legacy Program	Dulwich Hill

The Mayor, Councillor Christou left the Meeting at 7:45pm. The Deputy Mayor, Councillor Sarkis assumed the Chair accordingly. The Mayor, Councillor Christou returned to the Meeting and assumed the Chair at 7:47pm.

Councillor Hamed left the Meeting at 7:45pm and returned to the Meeting at 7:48pm during Public Forum.

Councillor Sarkis left the Meeting at 7:47pm and returned to the Meeting at 7:49pm during Public Forum.

Councillor Hamed left the Meeting at 7:55pm and returned to the Meeting at 7:57pm during Public Forum.

Councillor Attie left the Meeting at 8:01pm and returned to the Meeting at 8:03pm during Public Forum.

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**Min.792      Suspension of Standing Orders**

**Resolved (Sarkis/Cummings)**

That in accordance with Clause 8.2 of the Code of Meeting Practice, Council suspend standing orders to allow Items C08/20-524 and C08/20-525 to be brought forward for consideration at this time of the Meeting.

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**Min.793      C08/20-524 Cumberland Development Control Plan - Post Exhibition Report on New Planning Controls for Cumberland City**

**Motion (Attie/Sarkis)**

That Council:

1. Note the submissions received prior to, during and immediately following the public exhibition period for the new Cumberland Development Control Plan.
2. Endorse the planning controls for Cumberland City, as provided at Attachment 1, including those which were included in the draft Cumberland Development Control Plan and have not changed following exhibition, and those which reflect proposed general amendments following public exhibition and further review by Council officers.

3. Endorse the planning controls for Cumberland City, as provided at Attachment 2, which reflect proposed site specific amendments following public exhibition and further review by Council officers.
4. Note the site specific requests received as part of the process for the new Cumberland Development Control Plan, as provided at Attachment 3.
5. Adopt the Cumberland Development Control Plan, as provided at Attachments 4 to 14, to come into effect on the date of publication of the new Cumberland Local Environmental Plan in the Government Gazette.
6. Delegate to the General Manager the authorisation to make minor revisions to the new Cumberland Development Control Plan, as necessary, following Council's deliberations, to ensure the desired objectives and intended outcomes can be achieved.
7. Adopt the Cumberland Flood Risk Management Policy, as provided at Attachment 15, to come into effect at the same time as the new Cumberland Development Control Plan.
8. Review the new Cumberland Development Control Plan two years after commencement to ensure that the planning controls continue to support planning and development outcomes in Cumberland City.
9. Make the following amendments:
  - a) Part B3 - Add Section 3.4 to the DCP to refer to landscaping and adopt a 20% landscaping, minimum 30sqm per dwelling.
  - b) Part B5, Section 2.2 - Replace first sentence in control C1 to say that a minimum 10% mix of 1 bedroom and a minimum 10% mix of 3 bedroom dwelling types shall be provided, with the balance as 2 bedrooms.
  - c) Part F2-1, Section 2.4 – Add 'and include 90 degree parking on the northern side of Mary Street' to control C7.
  - d) Pemulwuy residential landscaping controls - change 4 posts for tree guards to 2 posts.
10. Ensure that references to land outside of the Cumberland LGA are omitted from the planning controls related to Granville Town Centre.

**Amendment (Campbell/Elmore)**

Add a point 11 as follows:

That Table 1 under section 2.5.2 *Development applications requiring notifications and advertising* (p.304) be amended to require:

- (a) the notice on site to be of a minimum size of 80cms x 50 cms and to apply to all developments that require notification,
- (b) the Notification Period and Re-notification Period to begin five days from the date of the notification letter, and that any other references to notification in the DCP inconsistent with the above be modified accordingly.

The Amendment moved by Councillor Campbell seconded by Councillor Elmore on being Put was declared LOST.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Amendment: Campbell, Elmore, Hamed, Huang, Lake and Saha.

Councillor(s) Against the Amendment: Attie, Christou, Cummings, Garrard, Rahme, Sarkis, Zaiter and Zreika.

**Amendment (Lake/Hamed)**

That paragraph 9b be deleted.

The Amendment moved by Councillor Lake seconded by Councillor Hamed on being Put was declared LOST.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Amendment: Campbell, Elmore, Hamed, Huang, Lake and Saha.

Councillor(s) Against the Amendment: Attie, Christou, Cummings, Garrard, Rahme, Sarkis, Zaiter and Zreika.

The Motion moved by Councillor Attie seconded by Councillor Sarkis on being Put was declared CARRIED.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Attie, Christou, Cummings, Elmore, Garrard, Huang, Lake, Rahme, Saha, Sarkis, Zaiter and Zreika.

Councillor(s) Against the Motion: Campbell and Hamed.

Councillor Zaiter left the Meeting at 8:18pm and returned to the Meeting at 8:19pm during the consideration of this item.

Councillor Sarkis left the Meeting at 8:38pm and returned to the Meeting at 8:42pm during the consideration of this item.

Councillor Rahme left the Meeting at 8:41pm and returned to the Meeting at 8:42pm during the consideration of this item.



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**Min.794 C08/20-525 NSW Public Spaces Legacy Program****Resolved (Attie/Sarkis)**

That Council:

1. Endorse that a submission be prepared to the Department of Planning, Industry and Environment for Cumberland City Council to participate in the NSW Public Spaces Legacy Program.
2. Delegate authority to the General Manager to prepare a submission in accordance with the contents of this report.
3. Investigate the feasibility of the Pippita Trail project.

**Carried Unanimously**

Councillor Rahme left the Meeting at 8:54pm during the consideration of this item.

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**Min.795 Items by Exception****Resolved (Attie/Sarkis)**

That Council adopt items C08/20-515, C08/20-516, C08/20-518, C08/20-519, C08/20-520, C08/20-521, C08/20-522, C08/20-527, C08/20-528 and C08/20-529 on the Council Agenda in bulk as per the recommendations in the reports.

Councillor Zreika left the Meeting at 9:01pm and returned to the Meeting at 9:03pm during the consideration of this item.

Councillor Rahme returned to the Meeting at 9:02pm during the consideration of this item.

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**Min.796 C08/20-515 Legal Report****Resolved (Attie/Sarkis)**

That the report be received.

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**Min.797 C08/20-516 Quarter 4 Performance Report on the Operational Plan 2019-20****Resolved (Attie/Sarkis)**

That Council:

1. Receive and note the information contained in this report.
2. Carry over 11 projects into the Operational Plan 2020-21, and discontinue 4 projects as outlined in this report.

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**Min.798 C08/20-518 Investment Report - July 2020****Resolved (Attie/Sarkis)**

That Council receive the report.

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**Min.799 C08/20-519 Local Government NSW Annual Conference 2020****Resolved (Attie/Sarkis)**

That Council:

1. Confirm its intention to nominate the appointment of up to 10 voting delegates to vote on motions at the Local Government NSW Annual Conference; and
2. Consider submitting of any motions to be considered at the Local Government NSW Annual Conference.

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**Min.800 C08/20-520 Draft Data Breach Response Policy****Resolved (Attie/Sarkis)**

That Council place the *Draft Data Breach Response Policy* on public exhibition for a period of 28 days, with a report to be provided back to Council following the conclusion of the exhibition period.

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**Min.801 C08/20-521 Finalisation of Milton Street, Lidcombe Proposed Road Closure****Resolved (Attie/Sarkis)**

That Council:

1. Note the submissions received during the public notice period.
2. Endorse the lodgement of a road closure application for part of Milton Street, Lidcombe to the NSW Department of Industry - Lands.
3. Delegate authority to the General Manager to execute the documents to finalise this matter.

---

**Min.802 C08/20-522 Part Board Street, Lidcombe - Proposed Part Closure and Sale****Resolved (Attie/Sarkis)**

That Council:

1. Approve in principle the permanent closure of part of Board Street, Lidcombe as attached.

- 
2. Advertise the proposed closure and sale of the laneway for a period of 28 days in accordance with S.38B of the *Roads Act 1993*.
  3. Authorise the General Manager to undertake a sale process for the road once closed, in accordance with independent valuation and legal advice if no adverse submissions are received.

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**Min.803            C08/20-527 Tender For Manufacture and Supply of Multi-Function Poles Contract**

**Resolved (Attie/Sarkis)**

That Council:

1. Accept the Tender Evaluation Panel's recommendation to award the contract to Goldspar Australia Pty Ltd for Parramatta Road Urban Amenity Improvement Program in accordance with Clause 175 of the *Local Government (General) Regulations 2005*, based on the Tendered Schedule of Rates;
2. Form a panel of Contractors for the Manufacture and Supply of Multi-Function Poles with the initial contract term of three (3) years with an option to extend a further two (2) years. The panel will be formed by awarding the contract to GM Poles (NSW) Pty Ltd, Goldspar Australia Pty Ltd, MFP Systems Pty Ltd and Hub Australasia Pty Ltd in accordance with Clause 175 of the *Local Government (General) Regulations 2005*; and
3. Delegate to the General Manager the authority to execute the contract and any associated documents.

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**Min.804            C08/20-528 Contract for the Supply of Natural Gas for Council Facilities**

**Resolved (Attie/Sarkis)**

That Council:

1. In accordance with section 55 (3)(G) of the *Local Government Act 1993*, accept the NSW Procurement contract with Origin Energy Retail (ABN 22 078 868 425) for the retail supply of natural gas for small sites in NSW and ACT with consumption under 10 terajoules per year, for a period of four years, expiring 30 June 2024 in accordance with Attachment 1; and
2. Delegate authority to the General Manager to execute the contract.

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**Min.805            C08/20-529 Variation to Tender Evaluation Report - Neil Street Merrylands - Road and Drainage Works**

**Resolved (Attie/Sarkis)**

That Council:



1. Endorse the approval of a project variation of \$3,441,000 ex GST, for Tender T-2019-010 Neil Street Merrylands – Road and Drainage Works, to proceed according to the contract issued.
2. Delegate to the General Manager the authority to finalise any variations required in the documentation.

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**Min.806 C08/20-517 Monthly Management Report - June 2020****Resolved (Saha/Sarkis)**

That Council receive the information contained in this report.

The Motion moved by Councillor Saha seconded by Councillor Sarkis on being Put was declared CARRIED.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Attie, Campbell, Christou, Cummings, Elmore, Garrard, Hamed, Huang, Lake, Saha, Sarkis, Zaiter and Zreika.

Councillor(s) Against the Motion: Rahme

Councillor Hamed left the Meeting at 9:15pm and returned to the Meeting at 9:17pm during the consideration of this item.

Councillor Hamed left the Meeting at 9:18pm and returned to the Meeting at 9:21pm during the consideration of this item.

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**C08/20-518 Investment Report - July 2020**

This item was dealt with earlier in the meeting.

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**C08/20-519 Local Government NSW Annual Conference 2020**

This item was dealt with earlier in the meeting.

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**C08/20-520 Draft Data Breach Response Policy**

This item was dealt with earlier in the meeting.

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**C08/20-521 Finalisation of Milton Street, Lidcombe Proposed Road Closure**

This item was dealt with earlier in the meeting.

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**C08/20-522 Part Board Street, Lidcombe - Proposed Part Closure and Sale**

This item was dealt with earlier in the meeting.

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**Min.807 C08/20-523 Response to Notice of Motion - Draft Code of Meeting Practice - Post Exhibition**

**Motion (Zreika/Attie)**

That Council adopt the *Code of Meeting Practice* per Attachment 1.

**Amendment (Lake/Campbell)**

Insert

"Subject to the following:

**Clause 3.10**

Insert "on the Monday".

Omit "9" and insert "7"

**Clause 4.1**

Omit "on the business paper at the meeting of Council or Committee"

Insert "of policy, the delivery of services, regulatory functions or issues of community concern"

**Clause 4.2**

Omit "for all speakers combined"

**Clause 4.3**

Omit "day before" and insert "day of"

Insert "Accepting requests after this time will be at the discretion of the Chairperson.

Omit "The application must relate to an item of business on the Council meeting agenda, and "

Insert "Where the application relates to an item of business on the Council meeting agenda,"

**Clause 4.4**

Insert "An increase in this number may be granted at the discretion of the Chairperson"

**Clause 4.9**

Omit "2" and insert "3"

**Clause 10.21**

Omit "one (1)" and insert "three (3)"

**Clause 14.13**

Omit "2" and insert "3"

Omit "being no more than 1 for and 1 against"

**Clause 14.16**

Omit "2" and insert "3"

Omit "and being no more than 1 for and 1 against"

**Clause 14.17**

Omit "2" and insert "3"

Omit "with no extensions"

**Clause 19.12**

Insert "Unless resolved otherwise, it is Council's practice not to implement decisions of the Council until 5pm on the Friday following the Council and/or committee meeting."

The Amendment moved by Councillor Lake seconded by Councillor Campbell on being Put was declared LOST on the casting vote of the Mayor.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Amendment: Campbell, Cummings, Elmore, Hamed, Huang, Lake and Saha.

Councillor(s) Against the Amendment: Attie, Christou, Garrard, Rahme, Sarkis, Zaiter and Zreika.

The Motion moved by Councillor Zreika seconded by Councillor Attie on being Put was declared CARRIED on the casting vote of the Mayor.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Attie, Christou, Garrard, Rahme, Sarkis, Zaiter and Zreika.

Councillor(s) Against the Motion: Campbell, Cummings, Elmore, Hamed, Huang, Lake and Saha.

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**C08/20-524 Cumberland Development Control Plan -Post Exhibition Report on New Planning Controls for Cumberland City**

This item was dealt with earlier in the meeting.

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**C08/20-525 NSW Public Spaces Legacy Program**

This item was dealt with earlier in the meeting.

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**Min.808 C08/20-526 Wentworthville Memorial Swim Centre - Creation of Electrical Easement**

**Resolved (Saha/Zaiter)**

That Council:

1. Agree to the creation of an easement on Dunmore Street, Wentworthville as shown in the attachment, for Endeavour Energy; and
2. Delegate to the General Manager the authority to execute the agreement with Endeavour Energy and any associated documents.

The Motion moved by Councillor Saha seconded by Councillor Zaiter on being Put was declared CARRIED.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Attie, Campbell, Christou, Cummings, Elmore, Garrard, Hamed, Huang, Lake, Saha, Sarkis, Zaiter and Zreika.

Councillor(s) Against the Motion: Rahme

Councillor Cummings left the Meeting at 9:50pm and returned to the Meeting at 9:57pm during the consideration of this item.

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**C08/20-527 Tender For Manufacture and Supply of Multi-Function Poles Contract**

This item was dealt with earlier in the meeting.

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**C08/20-528 Contract for the Supply of Natural Gas for Council Facilities**

This item was dealt with earlier in the meeting.

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**C08/20-529 Variation to Tender Evaluation Report - Neil Street Merrylands - Road and Drainage Works**

This item was dealt with earlier in the meeting.

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**Min.809 Closed Session**

**Resolved (Attie/Rahme)**

At this stage of the meeting being 9:57pm, the Mayor advised that in accordance with Section 10a of the *Local Government Act 1993* the meeting would move into Closed Session, with the members of the press and public excluded from the closed session and access to the correspondence and reports relating to the items considered during the course of the closed session being withheld. This action was taken as the items listed were within the following provisions under Section 10a of the *Local Government Act*:-

*(2) The matters and information are the following:*

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

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**Min.810 Open Session**

**Resolved (Attie/Sarkis)**

Council returned to Open Session at 10:17pm to resolve the below Confidential Item:

C08/20-530 Outcome of Expression of Interest Process - Lease over Oriole Park Baseball Club Building

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**Min.811 C08/20-530 Outcome of Expression of Interest Process - Lease over Oriole Park Baseball Club Building****Resolved (Attie/Zreika)**

That Council:

1. Note the potential uses for the site submitted by proponents through the Expression of Interest Process;
2. Accept in principle the submission made by the Western Sydney Wolves as the use conforms to the zoning of the site;
3. Further negotiate the final terms of the proposal and a 20 year lease; and
4. Receive a further report in future outlining the results of the negotiation process.

The Motion moved by Councillor Attie seconded by Councillor Zreika on being Put was declared CARRIED.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Attie, Campbell, Christou, Cummings, Elmore, Garrard, Huang, Rahme, Saha, Sarkis, Zaiter and Zreika.

Councillor(s) Against the Motion: Hamed and Lake.

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The Mayor, Councillor Christou closed the meeting at 10:19pm.

Chairperson \_\_\_\_\_ General Manager \_\_\_\_\_



Item No: C09/20-532

## REVIEW OF PROPERTY POLICY

Responsible Division: Finance & Governance  
Officer: Director Finance & Governance  
File Number: 1695231  
Community Strategic Plan Goal: *Transparent and accountable leadership*

## SUMMARY

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This report recommends the re-adoption of the *Property Policy* subject to minor administrative changes, following a policy review process undertaken.

## RECOMMENDATION

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**That Council re-adopt the *Property Policy* including minor amendments as outlined in this report.**

## REPORT

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The *Property Policy* was adopted in October 2017. It provides a framework for Council to review its existing property portfolio and plan for its future direction. It aims to establish a strategic, transparent and consistent approach to the management of Council's property assets and provide a basis for Council decision making in relation to property acquisition and disposal.

Council owns, operates and is custodian for Community, Crown and Operational Lands under the *Local Government Act 1993* and *Crown Land Management Act 2016*.

Council currently utilises its property assets to provide:

- Services to the community, including Council delivered services as well as under lease and license arrangements to users in the community;
- Open public space;
- A strategic purpose; and/or
- A commercial return on investment.

The provision of the above services and property usage is aligned with the Community Strategic Plan and reviewed on an asset by asset basis regularly.

Council receives regular requests from organisations, businesses and individuals to utilise, sell or acquire Council owned and managed property assets. The *Property Policy* provides good governance over property transactions, and promotes transparency to the community in relation to all property transactions.



## Changes to Previous Policy

- 1) AASB Investment property – Council has added this to the policy to strengthen the framework around how we review the use of property and when we should change classification from property plant and equipment to Investment Property.
- 2) Property Reserve – amended the wording to clarify how funds are withdrawn from the property reserve.
- 3) Other minor updates/Administrative changes as a result of legislative updates – which do not change the intent of the Policy.

The Policy was due for periodic review, and has been reviewed by Council officers with some minor administrative changes made. The Policy is recommended for re-adoption.

## COMMUNITY ENGAGEMENT

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There is no community engagement proposed due to the minor nature of the changes.

## POLICY IMPLICATIONS

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The changes to the policy will further improve this Policy and will ensure Council meets legislative requirements prescribed in the *Local Government Act 1993*. Should the Policy be re-adopted, it will be updated in Council's Policy Register and will rescind and supersede the existing version of this Policy.

## RISK IMPLICATIONS

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The *Property Policy* provides a framework through which Council can consider its property assets and make decisions using a systematic and transparent approach to property usage, acquisition and disposal. The *Policy* addresses the probity and governance requirements of these transactions in line with the *Local Government Act 1993*, thereby reducing risk to Council.

## FINANCIAL IMPLICATIONS

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There are no direct financial implications for Council associated with this report, however, appropriate management of Council's property portfolio will ensure that Council continues to reduce its reliance on rates revenue and expand its income potential from alternative sources and improve the asset value of the portfolio.

As the property strategies evolve, there will be significant financial implications for Council that will need to be incorporated into Council's *Long Term Financial Plan*, *Development Contributions Plan* and ongoing *Operational Plan* budgets. Any income generated from the sale of surplus property is proposed to be utilised to recycle into other or new properties within Council's property portfolio and property development projects in accordance with this Policy.



## CONCLUSION

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Council has an existing large property portfolio, which necessitates regular review to develop a single, coordinated and transparent approach to improve the way Council manages its property assets into the future.

The *Property Policy* establishes a strategic approach to the management of Council's property assets in accordance with the applicable Legislative Framework and provides a basis for accountable and transparent decision making for all property dealings either received or initiated by Council. It also ensures that decisions made in relation to Council's property assets maximise returns to the community by either realising a commercial level of financial return or by fulfilling a community benefit aligned to the goals of the *Community Strategic Plan*.

This report recommends that the *Property Policy* be re-adopted as the changes are minor and of a technical nature to assist with accounting for property.

## ATTACHMENTS

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1. Property Policy [↓](#)



DOCUMENTS  
ASSOCIATED WITH  
REPORT C09/20-532

Attachment 1  
Property Policy



CUMBERLAND  
CITY COUNCIL

# Property Policy

## AUTHORISATION & VERSION CONTROL

<b>Policy Number</b>	POL-042
<b>Policy Owner</b>	Director Finance & Governance
<b>Date Adopted</b>	2 September 2020
<b>Version No</b>	2
<b>Document ID Number:</b>	3184819
<b>Review Date</b>	2 September 2022

## PURPOSE

This Policy provides the framework for Council to review its existing property portfolio and plan for its future direction. It also establishes a consistent approach to the principles guiding the use and management of Council's property assets in accordance with the Legislative Framework.

It also supports Council's *Community Strategic Plan* by identifying how Council's property assets will be managed by Council to deliver the best possible outcomes to the community in alignment with Council's *Community Strategic Plan* and *Long Term Financial Plan*.

## SCOPE

The Policy:

- Establishes a strategic framework for the management of Council's property assets and related decisions to achieve a high performing property portfolio.
- Defines the requirements for decisions about the use and management (including lease and licence agreements), acquisition, retention, redevelopment and disposal of a property asset.
- Guides the creation and implementation of a Property Strategy to plan for the management of Council's property assets into the future with alignment to the Community Strategic Plan.

## DEFINITIONS

**Community Land** is Community Land under the *Local Government Act 1993* and *Crown Lands Management Act 2016*.

**Crown Land** is Land that is vested in the *Crown as per the Crown Lands Management Act 2016*.

**Legislative Framework** is the Related Legislation included in this Policy which may change or update from time to time.

**Property** includes Council owned buildings, Operational Land and Community Land. It also considers property that may be Crown Land vested in the Council to manage.

**Surplus** is property or land identified as no longer required by Council for community, operational, strategic or commercial purposes.

**Triple Bottom Line** is an approach which seeks to consider the social, environmental and economic value or benefits and is related to the concept of sustainable development.

## POLICY STATEMENT

Councils decision making in relation to its property assets will be managed in accordance with the *Community Strategic Plan*, which recognises that property assets contribute to Cumberland being a great place to live.

Council is committed to:

- Maximised utilisation of its property assets.
- The provision of high quality property assets that are fit for purpose and in line with community expectations.
- Best practice in property asset management, including continuous review of Council's property assets to enhance its strategic property holdings or to reposition Council's property portfolio to better align with community benefits.

## PRINCIPLES:

**A triple bottom line** approach will underpin all of Council's property transactions.

**Surplus property** will be identified and be presented to Council prior to being sold. Any income generated from the sale of surplus property will be recorded in the Property Reserve, and will be utilised to fund the expansion or consolidation of Council's property portfolio or property development projects in accordance with this Policy.

**Property reserve** to withdraw funds from this reserve it must be by Council resolution in the adopted annual budget or at an ordinary meeting of Council. The balance of the property reserve will be reported in the annual financial statements.

**Property development projects** will be identified and presented to Council for review prior to proceeding on each project. **Property development projects** will be included in Council's Delivery Program and Operational Plan.

**Property portfolio performance** the principles of managing the property portfolio are contained in the Property Strategy. The strategy is procedure that will be monitored and reported to Council as part of Council's corporate planning framework.

**Strategic Property Holding** will be identified and presented to Council for consideration for purchase and will include an analysis on feasibility, growth potential and community benefit.

## REQUIREMENTS

This Policy will be applied to all property transactions in accordance with the following requirements:

1. **Community Land** will be managed as provided under the *Local Government Act 1993* and *Local Government (General) Regulation 2005*. Community land classification reflects the importance of the land to the community because of its use or special features. Community land:
  - Cannot be sold;
  - Cannot be leased, licenced or any other estate granted over the land for more than 30 years; and

- Must have a plan of management prepared for it.
2. **Crown Land** will be managed as provided under the *Crown Lands Management Act 2016* and *Local Government Act 1993*.
  3. **Operational Land** Generally will be utilised by Council to achieve commercial revenue outcomes for the benefit of the community, through active management in accordance with proven land management principles.
  4. **Licenses** are preferred by Council, particularly on Community Land, where the value of an asset can be shared between community stakeholder groups for the broadest possible community engagement and benefit and maximum utilisation. Licences will be prepared, publicly notified and be entered into in accordance with the *Local Government Act 1993*.
  5. **Leases** will be provided where it is ascertained that an occupant can have exclusive use of an asset for a predetermined term to provide security of tenure for the lessee and lessor. Leases will be prepared, publicly notified and be entered into in accordance with the *Local Government Act 1993*. Council officers will undertake a desktop lease valuation where possible, or will seek independent lease valuations for commercial leases as required.
  6. **Acquisitions** will be undertaken in accordance with the *Local Government Act 1993*. Acquisition of property or land cannot be delegated and, as required by the *Local Government Act 1993*, must be effected by a resolution of Council. Where a property is listed for sale on the open market, Council can negotiate the terms of purchase to achieve the best possible commercial outcome. Where a property is not listed for sale on the open market, the acquisition must be undertaken in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*, where it can be demonstrated that the acquisition provides Council with a clear strategic solution for expanding or consolidating its property portfolio and supports Council's *Community Strategic Plan*.
  7. **Property and Land Sales** will be undertaken where the property/land is identified as surplus to Council's requirements and is approved by Council. The disposal of Council's property assets, cannot be delegated and, as required by the *Local Government Act 1993*, must be effected by a resolution of Council. The Act provides that only operational land can be sold. If the surplus land is classified as community land it must be reclassified as operational land before Council can consider selling it. Independent valuation advice must be obtained to ensure market value is realised and the reserve price must be based on a recommendation from an independent valuer.

Council will use competitive processes either by public auction, tender or expression of interest for the sale of surplus land unless it can be clearly demonstrated that this process will not result in the best outcome for Council.

Where it may not be possible or practical to use a competitive process, a sale by direct negotiation may be supported. For these instances, a report to Council outlining the reasons for a direct sale process is required and the process should follow the NSW Independent Commission Against Corruption - *Direct Negotiations: Guidelines for Managing Risks* (August 2018).

8. **Property Development Projects** will be carried out in accordance with the *Local*



*Government Act 1993* and in alignment with the Community Strategic Plan whereby it can be determined that the asset can be repositioned within both the community and property market to provide a higher return in terms of benefit to Council and the community prior to the development commencing.

9. **Renewal** of Council's property assets will be done in accordance with proven asset management strategies and in accordance with the annual Asset Management Plan of Council.
10. **Property Dealings** includes all other property transactions other than those identified above. These property transactions will be undertaken with broad consultation with both Council and community stakeholders with a view to aligning with Council's triple bottom line approach and demonstrating clear community benefit.
11. A **Property Register** will be maintained and continually updated where ownership changes relating to Council's property assets occur.
12. **Unsolicited Proposals** will be assessed in strict accordance with the *NSW Government Unsolicited Proposals – Guide for Submission and Assessment* (August 2017). The Guide sets out how unsolicited proposals will be assessed within a transparent framework. An unsolicited proposal cannot be formally accepted until Council has considered a report authorising the transaction.
13. **Investment Properties** will be assessed in accordance with the AASB 140 Investment Property and be reported in Annual Financial statements as Non-Current Assets. The accounting standard AASB 140 sets out in paragraph 57 how a change in use of property can be recognised as an investment. Management will need to complete annual valuations and review of the use to ensure all properties comply with this standard.

The purpose of changing the classification of Property is to recognise its most accurate use, and to record the most accurate valuation of the property. Any changes in value of investment will be recorded as an income in the financial statement. A property held that is not used as an owner occupied property is considered an investment property. Council will only recognise an investment property when it is not used or not intended to be used for commercial purposes.

## RELATED LEGISLATION

- *Local Government Act 1993*
- *Local Government (General) Regulation 2005*
- *Crown Lands Act 1989*
- *Crown Land Management Act 2016*
- *Roads Act 1993*
- *Real Property Act 1900*
- *Residential Tenancies Act 2010*
- *Retail Leases Act 1994*
- *Land Acquisitions (Just Terms Compensation) Act 1991*
- AASB 140 'Investment Property'

## RELATED DOCUMENTS AND COUNCIL POLICY

- Community Strategic Plan
- Long Term Financial Plan
- Delivery Program and Operational Plan
- Development Contribution Plan
- Open Space and Recreation Strategy
- Town Centre Strategies
- Asset Management Plan
- NSW Independent Commission Against Corruption – Direct Negotiations: Guidelines for Managing Risks (August 2018)
- NSW Government Unsolicited Proposals – Guide for Submission and Assessment (August 2017)

Item No: C09/20-533

## **ADOPTION OF NEW MODEL CODE OF CONDUCT & PROCEDURES FOR THE ADMINISTRATION OF THE CODE OF CONDUCT**

Responsible Division: Finance & Governance  
Officer: Director Finance & Governance  
File Number: HC-06-06-2/04  
Community Strategic Plan Goal: *Transparent and accountable leadership*

### **SUMMARY**

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This report recommends that Council adopt the newly released *Model Code of Conduct* and *Procedures for the Administration of the Code of Conduct*, as prescribed on 7 August 2020.

### **RECOMMENDATION**

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**That Council adopt the *Code of Conduct* and *Procedures for the Administration of the Code of Conduct* as attached to this report including the increase in the cap on gifts and benefits from \$50 to \$100.**

### **REPORT**

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The *Model Code of Conduct* and *Procedures for the Administration of the Model Code of Conduct* (Model Code Procedures) are prescribed under section 440 and 440AA of the *Local Government Act 1993*. The 2020 Model Code of Conduct and Model Code Procedures were prescribed on 7 August 2020.

Key changes to the new Model Code of Conduct include:

- Expanding the Office of Local Government's role in code of conduct breaches with councils limited to formally censuring councillors only. OLG will step in and impose more serious penalties, if appropriate, including requiring a public apology, suspension of payment of fees, and suspension or disqualification from office. This new process will also reduce time and cost to investigate complaints and take action.
- Requiring councils to publicly disclose the findings of an investigation when censuring a councillor to ensure the public is aware of the misconduct and therefore act as a deterrent to bad behaviour.
- Allowing councillors to avoid formal censure by their council for minor offences by making voluntary undertakings including apologising and attending training,

mediation and counselling. This will ensure resources are directed to investigating more serious breaches.

- Removing the requirement for councillors to formally appoint panels of conduct reviewers to investigate code of conduct breaches. Conduct reviewers can be appointed by the council general manager.
- Requiring webcasts of council meetings to be kept on council websites for at least 12 months.
- Strengthening the language in the Model Code of Conduct describing the various grounds of discrimination to reflect more contemporary standards.
- The OLG released *Model Code of Conduct* now increases the \$50 cap on gifts and benefits to \$100.

A copy of the prescribed *Model Code of Conduct* and *Procedures for the Administration of the Model Code of Conduct* in the Cumberland Council Policy template are attached to this report. These versions are unchanged to the content contained in the Office of Local Government document. These documents are in Council's template for the purposes of Policy management protocols and consistency.

## COMMUNITY ENGAGEMENT

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As Council is adopting the *Model Code of Conduct* and the *Procedures for Administration of the Code of Conduct* as prescribed and with unchanged content to the versions published on the Office of Local Government website, there are no consultation processes for Council associated with this report. These documents were immediately effective upon release so it is important that Council adopt these.

## POLICY IMPLICATIONS

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Adoption of the *Code of Conduct* and Model Code Procedures will rescind the previously adopted versions, which were based on the Office of Local Government - Model Code of Conduct and Model Code Procedures of 2018.

## RISK IMPLICATIONS

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Adoption of the *Code of Conduct* and Model Code Procedures will ensure Council is complying with the *Local Government Act 1993*.

## FINANCIAL IMPLICATIONS

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There are no financial implications for Council associated with this report.

## CONCLUSION

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The new *Model Code of Conduct* and *Procedures for the Administration of the Code of Conduct* were prescribed on 7 August 2020. Council has based its own *Code of*

*Conduct* and Procedures for the Administration of the Code of Conduct on these documents. It is recommended that Council endorse these key documents.

## ATTACHMENTS

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1. Code of Conduct [↓](#)
2. Procedures for the Administration of the Model Code of Conduct [↓](#)



DOCUMENTS  
ASSOCIATED WITH  
REPORT C09/20-533

Attachment 1  
Code of Conduct





CUMBERLAND  
CITY COUNCIL

# Code of Conduct

## AUTHORISATION & VERSION CONTROL

<b>Policy Number</b>	POL-001
<b>Policy Owner</b>	Director Finance & Governance
<b>Date Adopted</b>	
<b>Version No</b>	3.0
<b>Document ID</b>	
<b>Review Date</b>	

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## PART 1 INTRODUCTION

This *Model Code of Conduct for Local Councils in NSW* ("the Model Code of Conduct") is made under section 440 of the *Local Government Act 1993* ("LGA") and the *Local Government (General) Regulation 2005* ("the Regulation").

The Model Code of Conduct sets the minimum standards of conduct for council officials. It is prescribed by regulation to assist council officials to:

- understand and comply with the standards of conduct that are expected of them
- enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439)
- act in a way that enhances public confidence in local government.

Section 440 of the LGA requires every council (including county councils) and joint organisation to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct. A council's or joint organisation's adopted code of conduct may also include provisions that supplement the Model Code of Conduct and that extend its application to persons that are not "council officials" for the purposes of the Model Code of Conduct (eg volunteers, contractors and members of wholly advisory committees).

A council's or joint organisation's adopted code of conduct has no effect to the extent that it is inconsistent with the Model Code of Conduct. However, a council's or joint organisation's adopted code of conduct may prescribe requirements that are more onerous than those prescribed in the Model Code of Conduct.

Councillors, administrators, members of staff of councils, delegates of councils, (including members of council committees that are delegates of a council) and any other person a council's adopted code of conduct applies to, must comply with the applicable provisions of their council's code of conduct. It is the personal responsibility of council officials to comply with the standards in the code and to regularly review their personal circumstances and conduct with this in mind.

Failure by a councillor to comply with the standards of conduct prescribed under this code constitutes misconduct for the purposes of the LGA. The LGA provides for a range of penalties that may be imposed on councillors for misconduct, including suspension or disqualification from civic office. A councillor who has been suspended on three or more occasions for misconduct is automatically disqualified from holding civic office for five years.

Failure by a member of staff to comply with a council's code of conduct may give rise to disciplinary action.

**Note:** References in the Model Code of Conduct to councils are also to be taken as references to county councils and joint organisations.

**Note:** In adopting the Model Code of Conduct, joint organisations should adapt it to substitute the terms “board” for “council”, “chairperson” for “mayor”, “voting representative” for “councillor” and “executive officer” for “general manager”.

**Note:** In adopting the Model Code of Conduct, county councils should adapt it to substitute the term “chairperson” for “mayor” and “member” for “councillor”.

## **PART 2      DEFINITIONS**

In this code the following terms have the following meanings:

administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
committee	see the definition of “council committee”
complaint	a code of conduct complaint made for the purposes of clauses 4.1 and 4.2 of the Procedures.
conduct	includes acts and omissions
council	includes county councils and joint organisations
council committee	a committee established by a council comprising of councillors, staff or other persons that the council has delegated functions to and the council’s audit, risk and improvement committee
council committee member	a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee, and a person other than a councillor who is a member of the council’s audit, risk and improvement committee
council official	includes councillors, members of staff of a council, administrators, council committee members, delegates of

	council and, for the purposes of clause 4.16, council advisers
councillor	any person elected or appointed to civic office, including the mayor and includes members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
designated person	a person referred to in clause 4.8
election campaign	includes council, state and federal election campaigns
environmental planning instrument	has the same meaning as it has in the <i>Environmental Planning and Assessment Act 1979</i>
general manager	includes the executive officer of a joint organisation
joint organisation	a joint organisation established under section 400O of the LGA
LGA	<i>Local Government Act 1993</i>
local planning panel	a local planning panel constituted under the <i>Environmental Planning and Assessment Act 1979</i>
mayor	includes the chairperson of a county council or a joint organisation
members of staff of a council	includes members of staff of county councils and joint organisations
the Office	Office of Local Government
personal information	information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose

	identity is apparent or can reasonably be ascertained from the information or opinion
the Procedures	the <i>Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW</i> prescribed under the Regulation
the Regulation	the <i>Local Government (General) Regulation 2005</i>
voting representative	a voting representative of the board of a joint organisation
wholly advisory committee	a council committee that the council has not delegated any functions to

DRAFT

## **PART 3 GENERAL CONDUCT OBLIGATIONS**

### General conduct

- 3.1 You must not conduct yourself in a manner that:
- a) is likely to bring the council or other council officials into disrepute
  - b) is contrary to statutory requirements or the council's administrative requirements or policies
  - c) is improper or unethical
  - d) is an abuse of power
  - e) causes, comprises or involves intimidation or verbal abuse
  - f) involves the misuse of your position to obtain a private benefit
  - g) constitutes harassment or bullying behaviour under this code, or is unlawfully discriminatory.
- 3.2 You must act lawfully and honestly, and exercise a reasonable degree of care and diligence in carrying out your functions under the LGA or any other Act. (*section 439*).

### Fairness and equity

- 3.3 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 3.4 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.
- 3.5 An act or omission in good faith, whether or not it involves error, will not constitute a breach of clauses 3.3 or 3.4.

### Harassment and discrimination

- 3.6 You must not harass or unlawfully discriminate against others, or support others who harass or unlawfully discriminate against others, on the grounds of age, disability, race (including colour, national or ethnic origin or immigrant status), sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding, sexual orientation, gender identity or intersex status or political, religious or other affiliation.
- 3.7 For the purposes of this code, "harassment" is any form of behaviour towards a person that:
- a) is not wanted by the person



- b) offends, humiliates or intimidates the person, and
- c) creates a hostile environment.

### Bullying

3.8 You must not engage in bullying behaviour towards others.

- 3.9 For the purposes of this code, “bullying behaviour” is any behaviour in which:
- a) a person or a group of people repeatedly behaves unreasonably towards another person or a group of persons, and
  - b) the behaviour creates a risk to health and safety.

3.10 Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:

- a) aggressive, threatening or intimidating conduct
- b) belittling or humiliating comments
- c) spreading malicious rumours
- d) teasing, practical jokes or ‘initiation ceremonies’
- e) exclusion from work-related events
- f) unreasonable work expectations, including too much or too little work, or work below or beyond a worker’s skill level
- g) displaying offensive material
- h) pressure to behave in an inappropriate manner.

3.11 Reasonable management action carried out in a reasonable manner does not constitute bullying behaviour for the purposes of this code. Examples of reasonable management action may include, but are not limited to:

- a) performance management processes
- b) disciplinary action for misconduct
- c) informing a worker about unsatisfactory work performance or inappropriate work behaviour
- d) directing a worker to perform duties in keeping with their job
- e) maintaining reasonable workplace goals and standards
- f) legitimately exercising a regulatory function
- g) legitimately implementing a council policy or administrative processes.

### Work health and safety

3.12 All council officials, including councillors, owe statutory duties under the *Work Health and Safety Act 2011* (WHS Act). You must comply with your duties under the WHS Act and your responsibilities under any policies or procedures adopted by the council to ensure workplace health and safety. Specifically, you must:

- a) take reasonable care for your own health and safety



- b) take reasonable care that your acts or omissions do not adversely affect the health and safety of other persons
- c) comply, so far as you are reasonably able, with any reasonable instruction that is given to ensure compliance with the WHS Act and any policies or procedures adopted by the council to ensure workplace health and safety
- d) cooperate with any reasonable policy or procedure of the council relating to workplace health or safety that has been notified to council staff
- e) report accidents, incidents, near misses, to the general manager or such other staff member nominated by the general manager, and take part in any incident investigations
- f) so far as is reasonably practicable, consult, co-operate and coordinate with all others who have a duty under the WHS Act in relation to the same matter.

#### Land use planning, development assessment and other regulatory functions

3.13 You must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the exercise of land use planning, development assessment and other regulatory functions.

3.14 In exercising land use planning, development assessment and other regulatory functions, you must ensure that no action, statement or communication between yourself and others conveys any suggestion of willingness to improperly provide concessions or preferential or unduly unfavourable treatment.

#### Binding caucus votes

3.15 You must not participate in binding caucus votes in relation to matters to be considered at a council or committee meeting.

3.16 For the purposes of clause 3.15, a binding caucus vote is a process whereby a group of councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the council or committee, irrespective of the personal views of individual members of the group on the merits of the matter before the council or committee.

3.17 Clause 3.15 does not prohibit councillors from discussing a matter before the council or committee prior to considering the matter in question at a council or committee meeting, or from voluntarily holding a shared view with other councillors on the merits of a matter.

- 3.18 Clause 3.15 does not apply to a decision to elect the mayor or deputy mayor, or to nominate a person to be a member of a council committee or a representative of the council on an external body.

Obligations in relation to meetings

- 3.19 You must comply with rulings by the chair at council and committee meetings or other proceedings of the council unless a motion dissenting from the ruling is passed.
- 3.20 You must not engage in bullying behaviour (as defined under this Part) towards the chair, other council officials or any members of the public present during council or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions).
- 3.21 You must not engage in conduct that disrupts council or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions), or that would otherwise be inconsistent with the orderly conduct of meetings.
- 3.22 If you are a councillor, you must not engage in any acts of disorder or other conduct that is intended to prevent the proper or effective functioning of the council, or of a committee of the council. Without limiting this clause, you must not:
- a) leave a meeting of the council or a committee for the purposes of depriving the meeting of a quorum, or
  - b) submit a rescission motion with respect to a decision for the purposes of voting against it to prevent another councillor from submitting a rescission motion with respect to the same decision, or
  - c) deliberately seek to impede the consideration of business at a meeting.

## PART 4 PECUNIARY INTERESTS

### What is a pecuniary interest?

- 4.1 A pecuniary interest is an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to you or a person referred to in clause 4.3.
- 4.2 You will not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision you might make in relation to the matter, or if the interest is of a kind specified in clause 4.6.
- 4.3 For the purposes of this Part, you will have a pecuniary interest in a matter if the pecuniary interest is:
- (a) your interest, or
  - (b) the interest of your spouse or de facto partner, your relative, or your partner or employer, or
  - (c) a company or other body of which you, or your nominee, partner or employer, is a shareholder or member.
- 4.4 For the purposes of clause 4.3:
- (a) Your “relative” is any of the following:
    - i) your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
    - ii) your spouse’s or de facto partner’s parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
    - iii) the spouse or de facto partner of a person referred to in paragraphs (i) and (ii).
  - (b) “de facto partner” has the same meaning as defined in section 21C of the *Interpretation Act 1987*.
- 4.5 You will not have a pecuniary interest in relation to a person referred to in subclauses 4.3(b) or (c):
- (a) if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
  - (b) just because the person is a member of, or is employed by, a council or a statutory body, or is employed by the Crown, or
  - (c) just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the

matter, so long as the person has no beneficial interest in any shares of the company or body.

What interests do not have to be disclosed?

4.6 You do not have to disclose the following interests for the purposes of this Part:

- (a) your interest as an elector
- (b) your interest as a ratepayer or person liable to pay a charge
- (c) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this code
- (d) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to your relative by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this code
- (e) an interest you have as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not)
- (f) if you are a council committee member, an interest you have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if you have been appointed to represent the organisation or group on the council committee
- (g) an interest you have relating to a contract, proposed contract or other matter, if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company
- (h) an interest you have arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because your relative is a shareholder (but not a director) of the corporation, or is a member (but not a member of the committee) of the association, or is a partner of the partnership
- (i) an interest you have arising from the making by the council of a contract or agreement with your relative for, or in relation to, any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:

- i) the performance by the council at the expense of your relative of any work or service in connection with roads or sanitation
  - ii) security for damage to footpaths or roads
  - iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council, or by or under any contract
- (j) an interest relating to the payment of fees to councillors (including the mayor and deputy mayor)
- (k) an interest relating to the payment of expenses and the provision of facilities to councillors (including the mayor and deputy mayor) in accordance with a policy under section 252 of the LGA,
- (l) an interest relating to an election to the office of mayor arising from the fact that a fee for the following 12 months has been determined for the office of mayor
- (m) an interest of a person arising from the passing for payment of a regular account for the wages or salary of an employee who is a relative of the person
- (n) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or a council committee member
- (o) an interest arising from the appointment of a councillor to a body as a representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.

4.7 For the purposes of clause 4.6, "relative" has the same meaning as in clause 4.4, but includes your spouse or de facto partner.

What disclosures must be made by a designated person?

4.8 Designated persons include:

- (a) the general manager
- (b) other senior staff of the council for the purposes of section 332 of the LGA
- (c) a person (other than a member of the senior staff of the council) who is a member of staff of the council or a delegate of the council and who holds a position identified by the council as the position of a designated person because it involves the exercise of functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest
- (d) a person (other than a member of the senior staff of the council) who is a member of a committee of the council identified by the council as a committee whose members are designated persons because the



functions of the committee involve the exercise of the council's functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the committee and the member's private interest.

- 4.9 A designated person:
- (a) must prepare and submit written returns of interests in accordance with clauses 4.21, and
  - (b) must disclose pecuniary interests in accordance with clause 4.10.
- 4.10 A designated person must disclose in writing to the general manager (or if the person is the general manager, to the council) the nature of any pecuniary interest the person has in any council matter with which the person is dealing as soon as practicable after becoming aware of the interest.
- 4.11 Clause 4.10 does not require a designated person who is a member of staff of the council to disclose a pecuniary interest if the interest relates only to the person's salary as a member of staff, or to their other conditions of employment.
- 4.12 The general manager must, on receiving a disclosure from a designated person, deal with the matter to which the disclosure relates or refer it to another person to deal with.
- 4.13 A disclosure by the general manager must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the council and the council must deal with the matter to which the disclosure relates or refer it to another person to deal with.

What disclosures must be made by council staff other than designated persons?

- 4.14 A member of staff of council, other than a designated person, must disclose in writing to their manager or the general manager the nature of any pecuniary interest they have in a matter they are dealing with as soon as practicable after becoming aware of the interest.
- 4.15 The staff member's manager or the general manager must, on receiving a disclosure under clause 4.14, deal with the matter to which the disclosure relates or refer it to another person to deal with.

What disclosures must be made by council advisers?

- 4.16 A person who, at the request or with the consent of the council or a council committee, gives advice on any matter at any meeting of the council or

committee, must disclose the nature of any pecuniary interest the person has in the matter to the meeting at the time the advice is given. The person is not required to disclose the person's interest as an adviser.

- 4.17 A person does not breach clause 4.16 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.

What disclosures must be made by a council committee member?

- 4.18 A council committee member must disclose pecuniary interests in accordance with clause 4.28 and comply with clause 4.29.

- 4.19 For the purposes of clause 4.18, a "council committee member" includes a member of staff of council who is a member of the committee.

What disclosures must be made by a councillor?

- 4.20 A councillor:

- (a) must prepare and submit written returns of interests in accordance with clause 4.21, and
- (b) must disclose pecuniary interests in accordance with clause 4.28 and comply with clause 4.29 where it is applicable.

Disclosure of interests in written returns

- 4.21 A councillor or designated person must make and lodge with the general manager a return in the form set out in schedule 2 to this code, disclosing the councillor's or designated person's interests as specified in schedule 1 to this code within 3 months after:

- (a) becoming a councillor or designated person, and
- (b) 30 June of each year, and
- (c) the councillor or designated person becoming aware of an interest they are required to disclose under schedule 1 that has not been previously disclosed in a return lodged under paragraphs (a) or (b).

- 4.22 A person need not make and lodge a return under clause 4.21, paragraphs (a) and (b) if:

- (a) they made and lodged a return under that clause in the preceding 3 months, or
- (b) they have ceased to be a councillor or designated person in the preceding 3 months.

- 4.23 A person must not make and lodge a return that the person knows or ought reasonably to know is false or misleading in a material particular.
- 4.24 The general manager must keep a register of returns required to be made and lodged with the general manager.
- 4.25 Returns required to be lodged with the general manager under clause 4.21(a) and (b) must be tabled at the first meeting of the council after the last day the return is required to be lodged.
- 4.26 Returns required to be lodged with the general manager under clause 4.21(c) must be tabled at the next council meeting after the return is lodged.
- 4.27 Information contained in returns made and lodged under clause 4.21 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.

Disclosure of pecuniary interests at meetings

- 4.28 A councillor or a council committee member who has a pecuniary interest in any matter with which the council is concerned, and who is present at a meeting of the council or committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- 4.29 The councillor or council committee member must not be present at, or in sight of, the meeting of the council or committee:
  - (a) at any time during which the matter is being considered or discussed by the council or committee, or
  - (b) at any time during which the council or committee is voting on any question in relation to the matter.
- 4.30 In the case of a meeting of a board of a joint organisation, a voting representative is taken to be present at the meeting for the purposes of clauses 4.28 and 4.29 where they participate in the meeting by telephone or other electronic means.
- 4.31 A disclosure made at a meeting of a council or council committee must be recorded in the minutes of the meeting.
- 4.32 A general notice may be given to the general manager in writing by a councillor or a council committee member to the effect that the councillor or council



committee member, or the councillor's or council committee member's spouse, de facto partner or relative, is:

(a) a member of, or in the employment of, a specified company or other body, or

(b) a partner of, or in the employment of, a specified person.

Such a notice is, unless and until the notice is withdrawn or until the end of the term of the council in which it is given (whichever is the sooner), sufficient disclosure of the councillor's or council committee member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the council or council committee after the date of the notice.

- 4.33 A councillor or a council committee member is not prevented from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the councillor or council committee member has an interest in the matter of a kind referred to in clause 4.6.
- 4.34 A person does not breach clauses 4.28 or 4.29 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.
- 4.35 Despite clause 4.29, a councillor who has a pecuniary interest in a matter may participate in a decision to delegate consideration of the matter in question to another body or person.
- 4.36 Clause 4.29 does not apply to a councillor who has a pecuniary interest in a matter that is being considered at a meeting if:
- (a) the matter is a proposal relating to:
    - (i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council's area, or
    - (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the council's area, and
  - (b) the pecuniary interest arises only because of an interest of the councillor in the councillor's principal place of residence or an interest of another person (whose interests are relevant under clause 4.3) in that person's principal place of residence, and
  - (c) the councillor made a special disclosure under clause 4.37 in relation to the interest before the commencement of the meeting.

- 4.37 A special disclosure of a pecuniary interest made for the purposes of clause 4.36(c) must:
- (a) be in the form set out in schedule 3 of this code and contain the information required by that form, and
  - (b) be laid on the table at a meeting of the council as soon as practicable after the disclosure is made, and the information contained in the special disclosure is to be recorded in the minutes of the meeting.
- 4.38 The Minister for Local Government may, conditionally or unconditionally, allow a councillor or a council committee member who has a pecuniary interest in a matter with which the council is concerned to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:
- (a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
  - (b) that it is in the interests of the electors for the area to do so.
- 4.39 A councillor or a council committee member with a pecuniary interest in a matter who is permitted to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter under clause 4.38, must still disclose the interest they have in the matter in accordance with clause 4.28.

## **PART 5 NON-PECUNIARY CONFLICTS OF INTEREST**

### What is a non-pecuniary conflict of interest?

- 5.1 Non-pecuniary interests are private or personal interests a council official has that do not amount to a pecuniary interest as defined in clause 4.1 of this code. These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.
- 5.2 A non-pecuniary conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your official functions in relation to a matter.
- 5.3 The personal or political views of a council official do not constitute a private interest for the purposes of clause 5.2.
- 5.4 Non-pecuniary conflicts of interest must be identified and appropriately managed to uphold community confidence in the probity of council decision-making. The onus is on you to identify any non-pecuniary conflict of interest you may have in matters that you deal with, to disclose the interest fully and in writing, and to take appropriate action to manage the conflict in accordance with this code.
- 5.5 When considering whether or not you have a non-pecuniary conflict of interest in a matter you are dealing with, it is always important to think about how others would view your situation.

### Managing non-pecuniary conflicts of interest

- 5.6 Where you have a non-pecuniary conflict of interest in a matter for the purposes of clause 5.2, you must disclose the relevant private interest you have in relation to the matter fully and in writing as soon as practicable after becoming aware of the non-pecuniary conflict of interest and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter. In the case of members of council staff other than the general manager, such a disclosure is to be made to the staff member's manager. In the case of the general manager, such a disclosure is to be made to the mayor.
- 5.7 If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes on each occasion on which the non-pecuniary conflict of interest arises. This disclosure constitutes disclosure in writing for the purposes of clause 5.6.

- 5.8 How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.
- 5.9 As a general rule, a non-pecuniary conflict of interest will be significant where it does not involve a pecuniary interest for the purposes of clause 4.1, but it involves:
- a) a relationship between a council official and another person who is affected by a decision or a matter under consideration that is particularly close, such as a current or former spouse or de facto partner, a relative for the purposes of clause 4.4 or another person from the council official's extended family that the council official has a close personal relationship with, or another person living in the same household
  - b) other relationships with persons who are affected by a decision or a matter under consideration that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship.
  - c) an affiliation between the council official and an organisation (such as a sporting body, club, religious, cultural or charitable organisation, corporation or association) that is affected by a decision or a matter under consideration that is particularly strong. The strength of a council official's affiliation with an organisation is to be determined by the extent to which they actively participate in the management, administration or other activities of the organisation.
  - d) membership, as the council's representative, of the board or management committee of an organisation that is affected by a decision or a matter under consideration, in circumstances where the interests of the council and the organisation are potentially in conflict in relation to the particular matter
  - e) a financial interest (other than an interest of a type referred to in clause 4.6) that is not a pecuniary interest for the purposes of clause 4.1
  - f) the conferral or loss of a personal benefit other than one conferred or lost as a member of the community or a broader class of people affected by a decision.
- 5.10 Significant non-pecuniary conflicts of interest must be managed in one of two ways:
- a) by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or

- b) if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a council or committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29.
- 5.11 If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest you must also explain in writing why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.
- 5.12 If you are a member of staff of council other than the general manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of your manager. In the case of the general manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of the mayor.
- 5.13 Despite clause 5.10(b), a councillor who has a significant non-pecuniary conflict of interest in a matter, may participate in a decision to delegate consideration of the matter in question to another body or person.
- 5.14 Council committee members are not required to declare and manage a non-pecuniary conflict of interest in accordance with the requirements of this Part where it arises from an interest they have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if they have been appointed to represent the organisation or group on the council committee.

#### Political donations

- 5.15 Councillors should be aware that matters before council or committee meetings involving their political donors may also give rise to a non-pecuniary conflict of interest.
- 5.16 Where you are a councillor and have received or knowingly benefitted from a reportable political donation:
  - a) made by a major political donor in the previous four years, and
  - b) the major political donor has a matter before council,you must declare a non-pecuniary conflict of interest in the matter, disclose the nature of the interest, and manage the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29. A



disclosure made under this clause must be recorded in the minutes of the meeting.

5.17 For the purposes of this Part:

- a) a “reportable political donation” has the same meaning as it has in section 6 of the *Electoral Funding Act 2018*
- b) “major political donor” has the same meaning as it has in the *Electoral Funding Act 2018*.

5.18 Councillors should note that political donations that are not a “reportable political donation”, or political donations to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interest. Councillors should determine whether or not such conflicts are significant for the purposes of clause 5.9 and take the appropriate action to manage them.

5.19 Despite clause 5.16, a councillor who has received or knowingly benefitted from a reportable political donation of the kind referred to in that clause, may participate in a decision to delegate consideration of the matter in question to another body or person.

Loss of quorum as a result of compliance with this Part

5.20 A councillor who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interest in the matter is permitted to participate in consideration of the matter if:

- a) the matter is a proposal relating to:
  - i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council’s area, or
  - ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the council’s area, and
- b) the non-pecuniary conflict of interest arises only because of an interest that a person has in that person’s principal place of residence, and
- c) the councillor discloses the interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part in accordance with clause 5.6.

5.21 The Minister for Local Government may, conditionally or unconditionally, allow a councillor or a council committee member who is precluded under this Part from participating in the consideration of a matter to be present at a meeting of the

council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:

- a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
- b) that it is in the interests of the electors for the area to do so.

5.22 Where the Minister exempts a councillor or committee member from complying with a requirement under this Part under clause 5.21, the councillor or committee member must still disclose any interests they have in the matter the exemption applies to, in accordance with clause 5.6.

Other business or employment

5.23 The general manager must not engage, for remuneration, in private employment, contract work or other business outside the service of the council without the approval of the council.

5.24 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the council that relates to the business of the council or that might conflict with the staff member's council duties unless they have notified the general manager in writing of the employment, work or business and the general manager has given their written approval for the staff member to engage in the employment, work or business.

5.25 The general manager may at any time prohibit a member of staff from engaging, for remuneration, in private employment, contract work or other business outside the service of the council that relates to the business of the council, or that might conflict with the staff member's council duties.

5.26 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the council if prohibited from doing so.

5.27 Members of staff must ensure that any outside employment, work or business they engage in will not:

- a) conflict with their official duties
- b) involve using confidential information or council resources obtained through their work with the council including where private use is permitted
- c) require them to work while on council duty
- d) discredit or disadvantage the council
- e) pose, due to fatigue, a risk to their health or safety, or to the health and safety of their co-workers.

Personal dealings with council

- 5.28 You may have reason to deal with your council in your personal capacity (for example, as a ratepayer, recipient of a council service or applicant for a development consent granted by council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.
- 5.29 You must undertake any personal dealings you have with the council in a manner that is consistent with the way other members of the community deal with the council. You must also ensure that you disclose and appropriately manage any conflict of interest you may have in any matter in accordance with the requirements of this code.

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**PART 6 PERSONAL BENEFIT**

- 6.1 For the purposes of this Part, a gift or a benefit is something offered to or received by a council official or someone personally associated with them for their personal use and enjoyment.
- 6.2 A reference to a gift or benefit in this Part does not include:
- a) items with a value of \$10 or less
  - b) a political donation for the purposes of the *Electoral Funding Act 2018*
  - c) a gift provided to the council as part of a cultural exchange or sister-city relationship that is not converted for the personal use or enjoyment of any individual council official or someone personally associated with them
  - d) a benefit or facility provided by the council to an employee or councillor
  - e) attendance by a council official at a work-related event or function for the purposes of performing their official duties, or
  - f) free or subsidised meals, beverages or refreshments provided to council officials in conjunction with the performance of their official duties such as, but not limited to:
    - i) the discussion of official business
    - ii) work-related events such as council-sponsored or community events, training, education sessions or workshops
    - iii) conferences
    - iv) council functions or events
    - v) social functions organised by groups, such as council committees and community organisations.

Gifts and benefits

- 6.3 You must avoid situations that would give rise to the appearance that a person or body is attempting to secure favourable treatment from you or from the council, through the provision of gifts, benefits or hospitality of any kind to you or someone personally associated with you.
- 6.4 A gift or benefit is deemed to have been accepted by you for the purposes of this Part, where it is received by you or someone personally associated with you.

How are offers of gifts and benefits to be dealt with?

- 6.5 You must not:
- a) seek or accept a bribe or other improper inducement
  - b) seek gifts or benefits of any kind

- c) accept any gift or benefit that may create a sense of obligation on your part, or may be perceived to be intended or likely to influence you in carrying out your public duty
  - d) subject to clause 6.7, accept any gift or benefit of more than token value as defined by clause 6.9
  - e) accept an offer of cash or a cash-like gift as defined by clause 6.13, regardless of the amount
  - f) participate in competitions for prizes where eligibility is based on the council being in or entering into a customer–supplier relationship with the competition organiser
  - g) personally benefit from reward points programs when purchasing on behalf of the council.
- 6.6 Where you receive a gift or benefit of any value other than one referred to in clause 6.2, you must disclose this promptly to your manager or the general manager in writing. The recipient, manager, or general manager must ensure that, at a minimum, the following details are recorded in the council's gift register:
- a) the nature of the gift or benefit
  - b) the estimated monetary value of the gift or benefit
  - c) the name of the person who provided the gift or benefit, and
  - d) the date on which the gift or benefit was received.
- 6.7 Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, the gift or benefit must be surrendered to the council, unless the nature of the gift or benefit makes this impractical.

#### Gifts and benefits of token value

- 6.8 You may accept gifts and benefits of token value. Gifts and benefits of token value are one or more gifts or benefits received from a person or organisation over a 12-month period that, when aggregated, do not exceed a value of \$100. They include, but are not limited to:
- a) invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed \$100
  - b) gifts of alcohol that do not exceed a value of \$100
  - c) ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like
  - d) prizes or awards that do not exceed \$100 in value.

#### Gifts and benefits of more than token value

- 6.9 Gifts or benefits that exceed \$100 in value are gifts or benefits of more than token value for the purposes of clause 6.5(d) and, subject to clause 6.7, must not be accepted.

- 6.10 Gifts and benefits of more than token value include, but are not limited to, tickets to major sporting events (such as international matches or matches in national sporting codes) with a ticket value that exceeds \$100, corporate hospitality at a corporate facility at major sporting events, free or discounted products or services for personal use provided on terms that are not available to the general public or a broad class of persons, the use of holiday homes, artworks, free or discounted travel.
- 6.11 Where you have accepted a gift or benefit of token value from a person or organisation, you must not accept a further gift or benefit from the same person or organisation or another person associated with that person or organisation within a single 12-month period where the value of the gift, added to the value of earlier gifts received from the same person or organisation, or a person associated with that person or organisation, during the same 12-month period would exceed \$100 in value.
- 6.12 For the purposes of this Part, the value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.

"Cash-like gifts"

- 6.13 For the purposes of clause 6.5(e), "cash-like gifts" include, but are not limited to, gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internet credit, lottery tickets, memberships or entitlements to discounts that are not available to the general public or a broad class of persons.

Improper and undue influence

- 6.14 You must not use your position to influence other council officials in the performance of their official functions to obtain a private benefit for yourself or for somebody else. A councillor will not be in breach of this clause where they seek to influence other council officials through the proper exercise of their role as prescribed under the LGA.
- 6.15 You must not take advantage (or seek to take advantage) of your status or position with council, or of functions you perform for council, in order to obtain a private benefit for yourself or for any other person or body.

**PART 7 RELATIONSHIPS BETWEEN COUNCIL OFFICIALS**Obligations of councillors and administrators

- 7.1 Each council is a body politic. The councillors or administrator/s are the governing body of the council. Under section 223 of the LGA, the role of the governing body of the council includes the development and endorsement of the strategic plans, programs, strategies and policies of the council, including those relating to workforce policy, and to keep the performance of the council under review.
- 7.2 Councillors or administrators must not:
- a) direct council staff other than by giving appropriate direction to the general manager by way of council or committee resolution, or by the mayor or administrator exercising their functions under section 226 of the LGA
  - b) in any public or private forum, direct or influence, or attempt to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the staff member or delegate
  - c) contact a member of the staff of the council on council-related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager
  - d) contact or issue instructions to any of the council's contractors, including the council's legal advisers, unless by the mayor or administrator exercising their functions under section 226 of the LGA.
- 7.3 Despite clause 7.2, councillors may contact the council's external auditor or the chair of the council's audit risk and improvement committee to provide information reasonably necessary for the external auditor or the audit, risk and improvement committee to effectively perform their functions.

Obligations of staff

- 7.4 Under section 335 of the LGA, the role of the general manager includes conducting the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council, implementing without undue delay, lawful decisions of the council and ensuring that the mayor and other councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their official functions.



7.5 Members of staff of council must:

- a) give their attention to the business of the council while on duty
- b) ensure that their work is carried out ethically, efficiently, economically and effectively
- c) carry out reasonable and lawful directions given by any person having authority to give such directions
- d) give effect to the lawful decisions, policies and procedures of the council, whether or not the staff member agrees with or approves of them
- e) ensure that any participation in political activities outside the service of the council does not interfere with the performance of their official duties.

Inappropriate interactions

7.6 You must not engage in any of the following inappropriate interactions:

- a) councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- b) council staff approaching councillors and administrators to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- c) subject to clause 8.6, council staff refusing to give information that is available to other councillors to a particular councillor
- d) councillors and administrators who have lodged an application with the council, discussing the matter with council staff in staff-only areas of the council
- e) councillors and administrators approaching members of local planning panels or discussing any application that is either before the panel or that will come before the panel at some future time, except during a panel meeting where the application forms part of the agenda and the councillor or administrator has a right to be heard by the panel at the meeting
- f) councillors and administrators being overbearing or threatening to council staff
- g) council staff being overbearing or threatening to councillors or administrators
- h) councillors and administrators making personal attacks on council staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 3 of this code in public forums including social media
- i) councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make

- j) council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community
- k) council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals
- l) councillors attending on-site inspection meetings with lawyers and/or consultants engaged by the council associated with current or proposed legal proceedings unless permitted to do so by the council's general manager or, in the case of the mayor or administrator, unless they are exercising their functions under section 226 of the LGA.

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## PART 8 ACCESS TO INFORMATION AND COUNCIL RESOURCES

### Councillor and administrator access to information

- 8.1 The general manager is responsible for ensuring that councillors and administrators can access information necessary for the performance of their official functions. The general manager and public officer are also responsible for ensuring that members of the public can access publicly available council information under the *Government Information (Public Access) Act 2009* (the GIPA Act).
- 8.2 The general manager must provide councillors and administrators with the information necessary to effectively discharge their official functions.
- 8.3 Members of staff of council must provide full and timely information to councillors and administrators sufficient to enable them to exercise their official functions and in accordance with council procedures.
- 8.4 Members of staff of council who provide any information to a particular councillor in the performance of their official functions must also make it available to any other councillor who requests it and in accordance with council procedures.
- 8.5 Councillors and administrators who have a private interest only in council information have the same rights of access as any member of the public.
- 8.6 Despite clause 8.4, councillors and administrators who are precluded from participating in the consideration of a matter under this code because they have a conflict of interest in the matter, are not entitled to request access to council information in relation to the matter unless the information is otherwise available to members of the public, or the council has determined to make the information available under the GIPA Act.

### Councillors and administrators to properly examine and consider information

- 8.7 Councillors and administrators must ensure that they comply with their duty under section 439 of the LGA to act honestly and exercise a reasonable degree of care and diligence by properly examining and considering all the information provided to them relating to matters that they are required to make a decision on.

### Refusal of access to information

- 8.8 Where the general manager or public officer determine to refuse access to information requested by a councillor or administrator, they must act reasonably. In reaching this decision they must take into account whether or not the

information requested is necessary for the councillor or administrator to perform their official functions (see clause 8.2) and whether they have disclosed a conflict of interest in the matter the information relates to that would preclude their participation in consideration of the matter (see clause 8.6). The general manager or public officer must state the reasons for the decision if access is refused.

#### Use of certain council information

8.9 In regard to information obtained in your capacity as a council official, you must:

- a) subject to clause 8.14, only access council information needed for council business
- b) not use that council information for private purposes
- c) not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have access by virtue of your office or position with council
- d) only release council information in accordance with established council policies and procedures and in compliance with relevant legislation.

#### Use and security of confidential information

8.10 You must maintain the integrity and security of confidential information in your possession, or for which you are responsible.

8.11 In addition to your general obligations relating to the use of council information, you must:

- a) only access confidential information that you have been authorised to access and only do so for the purposes of exercising your official functions
- b) protect confidential information
- c) only release confidential information if you have authority to do so
- d) only use confidential information for the purpose for which it is intended to be used
- e) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
- f) not use confidential information with the intention to cause harm or detriment to the council or any other person or body
- g) not disclose any confidential information discussed during a confidential session of a council or committee meeting or any other confidential forum (such as, but not limited to, workshops or briefing sessions).



Personal information

- 8.12 When dealing with personal information you must comply with:
- a) the *Privacy and Personal Information Protection Act 1998*
  - b) the *Health Records and Information Privacy Act 2002*
  - c) the Information Protection Principles and Health Privacy Principles
  - d) the council's privacy management plan
  - e) the Privacy Code of Practice for Local Government

Use of council resources

- 8.13 You must use council resources ethically, effectively, efficiently and carefully in exercising your official functions, and must not use them for private purposes, except when supplied as part of a contract of employment (but not for private business purposes), unless this use is lawfully authorised and proper payment is made where appropriate.
- 8.14 Union delegates and consultative committee members may have reasonable access to council resources and information for the purposes of carrying out their industrial responsibilities, including but not limited to:
- a) the representation of members with respect to disciplinary matters
  - b) the representation of employees with respect to grievances and disputes
  - c) functions associated with the role of the local consultative committee.
- 8.15 You must be scrupulous in your use of council property, including intellectual property, official services, facilities, technology and electronic devices and must not permit their misuse by any other person or body.
- 8.16 You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.
- 8.17 You must not use council resources (including council staff), property or facilities for the purpose of assisting your election campaign or the election campaigns of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.
- 8.18 You must not use the council letterhead, council crests, council email or social media or other information that could give the appearance it is official council material:
- a) for the purpose of assisting your election campaign or the election campaign of others, or

b) for other non-official purposes.

8.19 You must not convert any property of the council to your own use unless properly authorised.

Internet access

8.20 You must not use council's computer resources or mobile or other devices to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature, or that could otherwise lead to criminal penalty or civil liability and/or damage the council's reputation.

Council record keeping

8.21 You must comply with the requirements of the *State Records Act 1998* and the council's records management policy.

8.22 All information created, sent and received in your official capacity is a council record and must be managed in accordance with the requirements of the *State Records Act 1998* and the council's approved records management policies and practices.

8.23 All information stored in either soft or hard copy on council supplied resources (including technology devices and email accounts) is deemed to be related to the business of the council and will be treated as council records, regardless of whether the original intention was to create the information for personal purposes.

8.24 You must not destroy, alter, or dispose of council information or records, unless authorised to do so. If you need to alter or dispose of council information or records, you must do so in consultation with the council's records manager and comply with the requirements of the *State Records Act 1998*.

Councillor access to council buildings

8.25 Councillors and administrators are entitled to have access to the council chamber, committee room, mayor's office (subject to availability), councillors' rooms, and public areas of council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the general manager.

8.26 Councillors and administrators must not enter staff-only areas of council buildings without the approval of the general manager (or their delegate) or as

provided for in the procedures governing the interaction of councillors and council staff.

- 8.27 Councillors and administrators must ensure that when they are within a staff only area they refrain from conduct that could be perceived to improperly influence council staff decisions.

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**PART 9      MAINTAINING THE INTEGRITY OF THIS CODE**Complaints made for an improper purpose

- 9.1 You must not make or threaten to make a complaint or cause a complaint to be made alleging a breach of this code for an improper purpose.
- 9.2 For the purposes of clause 9.1, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:
- a) to bully, intimidate or harass another council official
  - b) to damage another council official's reputation
  - c) to obtain a political advantage
  - d) to influence a council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions
  - e) to influence the council in the exercise of its functions or to prevent or disrupt the exercise of those functions
  - f) to avoid disciplinary action under the Procedures
  - g) to take reprisal action against a person for making a complaint alleging a breach of this code
  - h) to take reprisal action against a person for exercising a function prescribed under the Procedures
  - i) to prevent or disrupt the effective administration of this code under the Procedures.

Detrimental action

- 9.3 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made alleging a breach of this code.
- 9.4 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under the Procedures.
- 9.5 For the purposes of clauses 9.3 and 9.4, a detrimental action is an action causing, comprising or involving any of the following:
- a) injury, damage or loss
  - b) intimidation or harassment
  - c) discrimination, disadvantage or adverse treatment in relation to employment
  - d) dismissal from, or prejudice in, employment
  - e) disciplinary proceedings.

Compliance with requirements under the Procedures

- 9.6 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under the Procedures.
- 9.7 You must comply with a reasonable and lawful request made by a person exercising a function under the Procedures. A failure to make a written or oral submission invited under the Procedures will not constitute a breach of this clause.
- 9.8 You must comply with a practice ruling made by the Office under the Procedures.

Disclosure of information about the consideration of a matter under the Procedures

- 9.9 All allegations of breaches of this code must be dealt with under and in accordance with the Procedures.
- 9.10 You must not allege breaches of this code other than by way of a complaint made or initiated under the Procedures.
- 9.11 You must not make allegations about, or disclose information about, suspected breaches of this code at council, committee or other meetings, whether open to the public or not, or in any other forum, whether public or not.
- 9.12 You must not disclose information about a complaint you have made alleging a breach of this code or any other matter being considered under the Procedures except for the purposes of seeking legal advice, unless the disclosure is otherwise permitted under the Procedures.
- 9.13 Nothing under this Part prevents a person from making a public interest disclosure to an appropriate public authority or investigative authority under the *Public Interest Disclosures Act 1994*.

Complaints alleging a breach of this Part

- 9.14 Complaints alleging a breach of this Part by a councillor, the general manager or an administrator are to be managed by the Office. This clause does not prevent the Office from referring an alleged breach of this Part back to the council for consideration in accordance with the Procedures.
- 9.15 Complaints alleging a breach of this Part by other council officials are to be managed by the general manager in accordance with the Procedures.



**SCHEDULE 1: DISCLOSURES OF INTERESTS AND OTHER MATTERS IN  
WRITTEN RETURNS SUBMITTED UNDER CLAUSE 4.21**Part 1: PreliminaryDefinitions

1. For the purposes of the schedules to this code, the following definitions apply:

*address* means:

- a) in relation to a person other than a corporation, the last residential or business address of the person known to the councillor or designated person disclosing the address, or
- b) in relation to a corporation, the address of the registered office of the corporation in New South Wales or, if there is no such office, the address of the principal office of the corporation in the place where it is registered, or
- c) in relation to any real property, the street address of the property.

*de facto partner* has the same meaning as defined in section 21C of the *Interpretation Act 1987*.

*disposition of property* means a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, including the following:

- a) the allotment of shares in a company
- b) the creation of a trust in respect of property
- c) the grant or creation of a lease, mortgage, charge, easement, licence, power, partnership or interest in respect of property
- d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action, or of an interest in respect of property
- e) the exercise by a person of a general power of appointment over property in favour of another person
- f) a transaction entered into by a person who intends by the transaction to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of another person.

*gift* means a disposition of property made otherwise than by will (whether or not by instrument in writing) without consideration, or with inadequate

consideration, in money or money's worth passing from the person to whom the disposition was made to the person who made the disposition, but does not include a financial or other contribution to travel.

*interest* means:

- a) in relation to property, an estate, interest, right or power, at law or in equity, in or over the property, or
- b) in relation to a corporation, a relevant interest (within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth) in securities issued or made available by the corporation.

*listed company* means a company that is listed within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth.

*occupation* includes trade, profession and vocation.

*professional or business association* means an incorporated or unincorporated body or organisation having as one of its objects or activities the promotion of the economic interests of its members in any occupation.

*property* includes money.

*return date* means:

- a) in the case of a return made under clause 4.21(a), the date on which a person became a councillor or designated person
- b) in the case of a return made under clause 4.21(b), 30 June of the year in which the return is made
- c) in the case of a return made under clause 4.21(c), the date on which the councillor or designated person became aware of the interest to be disclosed.

*relative* includes any of the following:

- a) a person's spouse or de facto partner
- b) a person's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
- c) a person's spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
- d) the spouse or de facto partner of a person referred to in paragraphs (b) and (c).

*travel* includes accommodation incidental to a journey.

Matters relating to the interests that must be included in returns

2. *Interests etc. outside New South Wales:* A reference in this schedule or in schedule 2 to a disclosure concerning a corporation or other thing includes any reference to a disclosure concerning a corporation registered, or other thing arising or received, outside New South Wales.
3. *References to interests in real property:* A reference in this schedule or in schedule 2 to real property in which a councillor or designated person has an interest includes a reference to any real property situated in Australia in which the councillor or designated person has an interest.
4. *Gifts, loans etc. from related corporations:* For the purposes of this schedule and schedule 2, gifts or contributions to travel given, loans made, or goods or services supplied, to a councillor or designated person by two or more corporations that are related to each other for the purposes of section 50 of the *Corporations Act 2001* of the Commonwealth are all given, made or supplied by a single corporation.

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Part 2: Pecuniary interests to be disclosed in returnsReal property

5. A person making a return under clause 4.21 of this code must disclose:
  - a) the street address of each parcel of real property in which they had an interest on the return date, and
  - b) the street address of each parcel of real property in which they had an interest in the period since 30 June of the previous financial year, and
  - c) the nature of the interest.
6. An interest in a parcel of real property need not be disclosed in a return if the person making the return had the interest only:
  - a) as executor of the will, or administrator of the estate, of a deceased person and not as a beneficiary under the will or intestacy, or
  - b) as a trustee, if the interest was acquired in the ordinary course of an occupation not related to their duties as the holder of a position required to make a return.
7. An interest in a parcel of real property need not be disclosed in a return if the person ceased to hold the interest prior to becoming a councillor or designated person.
8. For the purposes of clause 5 of this schedule, "interest" includes an option to purchase.

Gifts

9. A person making a return under clause 4.21 of this code must disclose:
  - a) a description of each gift received in the period since 30 June of the previous financial year, and
  - b) the name and address of the donor of each of the gifts.
10. A gift need not be included in a return if:
  - a) it did not exceed \$500, unless it was among gifts totalling more than \$500 made by the same person during a period of 12 months or less, or
  - b) it was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
  - c) the donor was a relative of the donee, or
  - d) subject to paragraph (a), it was received prior to the person becoming a councillor or designated person.
11. For the purposes of clause 10 of this schedule, the amount of a gift other than money is an amount equal to the value of the property given.

Contributions to travel

12. A person making a return under clause 4.21 of this code must disclose:
- a) the name and address of each person who made any financial or other contribution to the expenses of any travel undertaken by the person in the period since 30 June of the previous financial year, and
  - b) the dates on which the travel was undertaken, and
  - c) the names of the states and territories, and of the overseas countries, in which the travel was undertaken.
13. A financial or other contribution to any travel need not be disclosed under this clause if it:
- a) was made from public funds (including a contribution arising from travel on free passes issued under an Act or from travel in government or council vehicles), or
  - b) was made by a relative of the traveller, or
  - c) was made in the ordinary course of an occupation of the traveller that is not related to their functions as the holder of a position requiring the making of a return, or
  - d) did not exceed \$250, unless it was among gifts totalling more than \$250 made by the same person during a 12-month period or less, or
  - e) was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
  - f) was made by a political party of which the traveller was a member and the travel was undertaken for the purpose of political activity of the party in New South Wales, or to enable the traveller to represent the party within Australia, or
  - g) subject to paragraph (d) it was received prior to the person becoming a councillor or designated person.
14. For the purposes of clause 13 of this schedule, the amount of a contribution (other than a financial contribution) is an amount equal to the value of the contribution.

Interests and positions in corporations

15. A person making a return under clause 4.21 of this code must disclose:
- a) the name and address of each corporation in which they had an interest or held a position (whether remunerated or not) on the return date, and
  - b) the name and address of each corporation in which they had an interest or held a position in the period since 30 June of the previous financial year, and

- c) the nature of the interest, or the position held, in each of the corporations, and
  - d) a description of the principal objects (if any) of each of the corporations, except in the case of a listed company.
16. An interest in, or a position held in, a corporation need not be disclosed if the corporation is:
- a) formed for the purpose of providing recreation or amusement, or for promoting commerce, industry, art, science, religion or charity, or for any other community purpose, and
  - b) required to apply its profits or other income in promoting its objects, and
  - c) prohibited from paying any dividend to its members.
17. An interest in a corporation need not be disclosed if the interest is a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company.
18. An interest or a position in a corporation need not be disclosed if the person ceased to hold the interest or position prior to becoming a councillor or designated person.

Interests as a property developer or a close associate of a property developer

19. A person making a return under clause 4.21 of this code must disclose whether they were a property developer, or a close associate of a corporation that, or an individual who, is a property developer, on the return date.
20. For the purposes of clause 19 of this schedule:
- close associate*, in relation to a corporation or an individual, has the same meaning as it has in section 53 of the *Electoral Funding Act 2018*.
- property developer* has the same meaning as it has in Division 7 of Part 3 of the *Electoral Funding Act 2018*.

Positions in trade unions and professional or business associations

21. A person making a return under clause 4.21 of the code must disclose:
- a) the name of each trade union, and of each professional or business association, in which they held any position (whether remunerated or not) on the return date, and

- b) the name of each trade union, and of each professional or business association, in which they have held any position (whether remunerated or not) in the period since 30 June of the previous financial year, and
- c) a description of the position held in each of the unions and associations.

22. A position held in a trade union or a professional or business association need not be disclosed if the person ceased to hold the position prior to becoming a councillor or designated person.

#### Dispositions of real property

23. A person making a return under clause 4.21 of this code must disclose particulars of each disposition of real property by the person (including the street address of the affected property) in the period since 30 June of the previous financial year, under which they wholly or partly retained the use and benefit of the property or the right to re-acquire the property.

24. A person making a return under clause 4.21 of this code must disclose particulars of each disposition of real property to another person (including the street address of the affected property) in the period since 30 June of the previous financial year, that is made under arrangements with, but is not made by, the person making the return, being a disposition under which the person making the return obtained wholly or partly the use of the property.

25. A disposition of real property need not be disclosed if it was made prior to a person becoming a councillor or designated person.

#### Sources of income

26. A person making a return under clause 4.21 of this code must disclose:

- a) each source of income that the person reasonably expects to receive in the period commencing on the first day after the return date and ending on the following 30 June, and
- b) each source of income received by the person in the period since 30 June of the previous financial year.

27. A reference in clause 26 of this schedule to each source of income received, or reasonably expected to be received, by a person is a reference to:

- a) in relation to income from an occupation of the person:
  - (i) a description of the occupation, and
  - (ii) if the person is employed or the holder of an office, the name and address of their employer, or a description of the office, and
  - (iii) if the person has entered into a partnership with other persons, the name (if any) under which the partnership is conducted, or

- b) in relation to income from a trust, the name and address of the settlor and the trustee, or
  - c) in relation to any other income, a description sufficient to identify the person from whom, or the circumstances in which, the income was, or is reasonably expected to be, received.
28. The source of any income need not be disclosed by a person in a return if the amount of the income received, or reasonably expected to be received, by the person from that source did not exceed \$500, or is not reasonably expected to exceed \$500, as the case may be.
29. The source of any income received by the person that they ceased to receive prior to becoming a councillor or designated person need not be disclosed.
30. A fee paid to a councillor or to the mayor or deputy mayor under sections 248 or 249 of the LGA need not be disclosed.

#### Debts

31. A person making a return under clause 4.21 of this code must disclose the name and address of each person to whom the person was liable to pay any debt:
- a) on the return date, and
  - b) at any time in the period since 30 June of the previous financial year.
32. A liability to pay a debt must be disclosed by a person in a return made under clause 4.21 whether or not the amount, or any part of the amount, to be paid was due and payable on the return date or at any time in the period since 30 June of the previous financial year, as the case may be.
33. A liability to pay a debt need not be disclosed by a person in a return if:
- a) the amount to be paid did not exceed \$500 on the return date or in the period since 30 June of the previous financial year, as the case may be, unless:
    - (i) the debt was one of two or more debts that the person was liable to pay to one person on the return date, or at any time in the period since 30 June of the previous financial year, as the case may be, and
    - (ii) the amounts to be paid exceeded, in the aggregate, \$500, or
  - b) the person was liable to pay the debt to a relative, or
  - c) in the case of a debt arising from a loan of money the person was liable to pay the debt to an authorised deposit-taking institution or other person



- whose ordinary business includes the lending of money, and the loan was made in the ordinary course of business of the lender, or
- d) in the case of a debt arising from the supply of goods or services:
    - (i) the goods or services were supplied in the period of 12 months immediately preceding the return date, or were supplied in the period since 30 June of the previous financial year, as the case may be, or
    - (ii) the goods or services were supplied in the ordinary course of any occupation of the person that is not related to their duties as the holder of a position required to make a return, or
  - e) subject to paragraph (a), the debt was discharged prior to the person becoming a councillor or designated person.

Discretionary disclosures

34. A person may voluntarily disclose in a return any interest, benefit, advantage or liability, whether pecuniary or not, that is not required to be disclosed under another provision of this Schedule.

**SCHEDULE 2: FORM OF WRITTEN RETURN OF INTERESTS SUBMITTED  
UNDER CLAUSE 4.21**'Disclosures by councillors and designated persons' return

1. The pecuniary interests and other matters to be disclosed in this return are prescribed by Schedule 1 of the *Model Code of Conduct for Local Councils in NSW* (the Model Code of Conduct).
2. If this is the first return you have been required to lodge with the general manager after becoming a councillor or designated person, do not complete Parts C, D and I of the return. All other parts of the return should be completed with appropriate information based on your circumstances at the return date, that is, the date on which you became a councillor or designated person.
3. If you have previously lodged a return with the general manager and you are completing this return for the purposes of disclosing a new interest that was not disclosed in the last return you lodged with the general manager, you must complete all parts of the return with appropriate information for the period from 30 June of the previous financial year or the date on which you became a councillor or designated person, (whichever is the later date), to the return date which is the date you became aware of the new interest to be disclosed in your updated return.
4. If you have previously lodged a return with the general manager and are submitting a new return for the new financial year, you must complete all parts of the return with appropriate information for the 12-month period commencing on 30 June of the previous year to 30 June this year.
5. This form must be completed using block letters or typed.
6. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.
7. If there are no pecuniary interests or other matters of the kind required to be disclosed under a heading in this form, the word "NIL" is to be placed in an appropriate space under that heading.

Important information

This information is being collected for the purpose of complying with clause 4.21 of the Model Code of Conduct.



You must not lodge a return that you know or ought reasonably to know is false or misleading in a material particular (see clause 4.23 of the Model Code of Conduct). Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the council, the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

The information collected on this form will be kept by the general manager in a register of returns. The general manager is required to table all returns at a council meeting.

Information contained in returns made and lodged under clause 4.21 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.

You have an obligation to keep the information contained in this return up to date. If you become aware of a new interest that must be disclosed in this return, or an interest that you have previously failed to disclose, you must submit an updated return within three months of becoming aware of the previously undisclosed interest.

Disclosure of pecuniary interests and other matters by *[full name of councillor or designated person]*

as at *[return date]*

in respect of the period from *[date]* to *[date]*

*[councillor's or designated person's signature]*  
*[date]*

#### A. Real Property

Street address of each parcel of real property in which I had an interest at the return date/at any time since 30 June	Nature of interest

#### B. Sources of income

1 Sources of income I reasonably expect to receive from an occupation in the period commencing on the first day after the return date and ending on the following 30 June

Sources of income I received from an occupation at any time since 30 June

Description of occupation	Name and address of employer or description of office held (if applicable)	Name under which partnership conducted (if applicable)
---------------------------	--	--

2 Sources of income I reasonably expect to receive from a trust in the period commencing on the first day after the return date and ending on the following 30 June

Sources of income I received from a trust since 30 June

Name and address of settlor	Name and address of trustee
-----------------------------	-----------------------------

3 Sources of other income I reasonably expect to receive in the period commencing on the first day after the return date and ending on the following 30 June

Sources of other income I received at any time since 30 June

*[Include description sufficient to identify the person from whom, or the circumstances in which, that income was received]*

#### C. Gifts

Description of each gift I received at any time since 30 June	Name and address of donor
---	---------------------------

#### D. Contributions to travel

Name and address of each person who made any financial or other contribution to any travel undertaken by me at any time since 30 June	Dates on which travel was undertaken	Name of States, Territories of the Commonwealth and overseas countries in which travel was undertaken
---	--------------------------------------	---

**E. Interests and positions in corporations**

Name and address of each corporation in which I had an interest (if interest or held a position at the return date/at any time since 30 June)	Nature of position (if any)	Description of position (if any)	Description of principal objects (if any) of corporation (except in case of listed company)

**F. Were you a property developer or a close associate of a property developer on the return date? (Y/N)**

**G. Positions in trade unions and professional or business associations**

Name of each trade union and each professional or business association in which I held any position (whether remunerated or not) at the return date/at any time since 30 June	Description of position

**H. Debts**

Name and address of each person to whom I was liable to pay any debt at the return date/at any time since 30 June

**I. Dispositions of property**

1 Particulars of each disposition of real property by me (including the street address of the affected property) at any time since 30 June as a result of which I retained, either wholly or in part, the use and benefit of the property or the right to re-acquire the property at a later time

2 Particulars of each disposition of property to a person by any other person under arrangements made by me (including the street address of the affected property), being dispositions made at any time since 30 June, as a result of which I obtained, either wholly or in part, the use and benefit of the property

**J. Discretionary disclosures**

**SCHEDULE 3: FORM OF SPECIAL DISCLOSURE OF PECUNIARY INTEREST SUBMITTED UNDER CLAUSE 4.37**

1. This form must be completed using block letters or typed.
2. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

**Important information**

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 4.36(c) of the *Model Code of Conduct for Local Councils in NSW* (the Model Code of Conduct).

The special disclosure must relate only to a pecuniary interest that a councillor has in the councillor's principal place of residence, or an interest another person (whose interests are relevant under clause 4.3 of the Model Code of Conduct) has in that person's principal place of residence.

Clause 4.3 of the Model Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

"Relative" is defined by clause 4.4 of the Model Code of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

Special disclosure of pecuniary interests by *[full name of councillor]*

in the matter of *[insert name of environmental planning instrument]*

which is to be considered at a meeting of the *[name of council or council committee (as the case requires)]*

to be held on the                      day of                      20                      .

Pecuniary interest	
Address of the affected principal place of residence of the councillor or an associated person, company or body (the identified land)	
Relationship of identified land to the councillor <i>[Tick or cross one box.]</i>	<input type="checkbox"/> The councillor has an interest in the land (e.g. is the owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> An associated person of the councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the councillor has an interest in the land.
Matter giving rise to pecuniary interest <sup>1</sup>	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land) <sup>2</sup> <i>[Tick or cross one box]</i>	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.

<sup>1</sup> Clause 4.1 of the Model Code of Conduct provides that a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause 4.6 of the Model Code of Conduct.

<sup>2</sup> A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 4.3 of the Model Code of Conduct has a proprietary interest.

Current zone/planning control <i>[Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]</i>	
Proposed change of zone/planning control <i>[Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]</i>	
Effect of proposed change of zone/planning control on councillor or associated person <i>[Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]</i>	

*[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]*

Councillor's signature \_\_\_\_\_

Date \_\_\_\_\_

[This form is to be retained by the council's general manager and included in full in the minutes of the meeting]





DOCUMENTS  
ASSOCIATED WITH  
REPORT C09/20-533

Attachment 2

Procedures for the Administration  
of the Model Code of Conduct



CUMBERLAND  
CITY COUNCIL

# Procedures for the Administration of the Model Code of Conduct

## AUTHORISATION & VERSION CONTROL

<b>Policy Number</b>	POL-002
<b>Policy Owner</b>	Director Finance & Governance
<b>Date Adopted</b>	
<b>Version No</b>	3.0
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## PART 1 INTRODUCTION

These procedures (“the Model Code Procedures”) are prescribed for the administration of the *Model Code of Conduct for Local Councils in NSW* (“the Model Code of Conduct”).

The Model Code of Conduct is made under section 440 of the *Local Government Act 1993* (“the LGA”) and the *Local Government (General) Regulation 2005* (“the Regulation”). Section 440 of the LGA requires every council (including county councils) and joint organisation to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct.

The Model Code Procedures are made under section 440AA of the LGA and the Regulation. Section 440AA of the LGA requires every council (including county councils) and joint organisation to adopt procedures for the administration of their code of conduct that incorporate the provisions of the Model Code Procedures.

In adopting procedures for the administration of their adopted codes of conduct, councils and joint organisations may supplement the Model Code Procedures. However, provisions that are not consistent with those prescribed under the Model Code Procedures will have no effect.

**Note:** References in these procedures to councils are also to be taken as references to county councils and joint organisations.

**Note:** In adopting the Model Code Procedures, joint organisations should adapt them to substitute the terms “board” for “council”, “chairperson” for “mayor”, “voting representative” for “councillor” and “executive officer” for “general manager”.

**Note:** In adopting the Model Code Procedures, county councils should adapt them to substitute the term “chairperson” for “mayor” and “member” for “councillor”.

**Note:** Parts 6, 7, 8 and 11 of these procedures apply only to the management of code of conduct complaints about councillors (including the mayor) or the general manager.

## PART 2 DEFINITIONS

In these procedures the following terms have the following meanings:

administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
code of conduct	a code of conduct adopted under section 440 of the LGA

code of conduct complaint	a complaint that is a code of conduct complaint for the purposes of clauses 4.1 and 4.2 of these procedures
complainant	a person who makes a code of conduct complaint
complainant councillor	a councillor who makes a code of conduct complaint
complaints coordinator	a person appointed by the general manager under these procedures as a complaints coordinator
conduct reviewer	a person appointed under these procedures to review allegations of breaches of the code of conduct by councillors or the general manager
council	includes county councils and joint organisations
council committee	a committee established by a council comprising of councillors, staff or other persons that the council has delegated functions to and the council's audit, risk and improvement committee
council committee member	a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee, and a person other than a councillor who is a member of the council's audit, risk and improvement committee
councillor	any person elected or appointed to civic office, including the mayor, and includes members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
council official	any councillor, member of staff of council, administrator, council committee member, delegate of council and, for the purposes of clause 4.16 of the Model Code of Conduct, council adviser

delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
external agency	a state government agency such as, but not limited to, the Office, the ICAC, the NSW Ombudsman or the police
general manager	includes the executive officer of a joint organisation
ICAC	the Independent Commission Against Corruption
joint organisation	a joint organisation established under section 400O of the LGA
LGA	the <i>Local Government Act 1993</i>
mayor	includes the chairperson of a county council or a joint organisation
members of staff of a council	includes members of staff of county councils and joint organisations
the Office	the Office of Local Government
investigator	a conduct reviewer
the Regulation	the <i>Local Government (General) Regulation 2005</i>
respondent	a person whose conduct is the subject of investigation by a conduct reviewer under these procedures
wholly advisory committee	a council committee that the council has not delegated any functions to

### **PART 3 ADMINISTRATIVE FRAMEWORK**

#### The establishment of a panel of conduct reviewers

3.1 The council must establish a panel of conduct reviewers.



- 3.2 The council may enter into an arrangement with one or more other councils to share a panel of conduct reviewers including through a joint organisation or another regional body associated with the councils.
- 3.3 The panel of conduct reviewers is to be established following a public expression of interest process.
- 3.4 An expression of interest for members of the council's panel of conduct reviewers must, at a minimum, be advertised locally and in the Sydney metropolitan area.
- 3.5 To be eligible to be a conduct reviewer, a person must, at a minimum, meet the following requirements:
- a) an understanding of local government, and
  - b) knowledge of investigative processes including but not limited to procedural fairness requirements and the requirements of the *Public Interest Disclosures Act 1994*, and
  - c) knowledge and experience of one or more of the following:
    - i) investigations
    - ii) law
    - iii) public administration
    - iv) public sector ethics
    - v) alternative dispute resolution, and
  - d) meet the eligibility requirements for membership of a panel of conduct reviewers under clause 3.6.
- 3.6 A person is not eligible to be a conduct reviewer if they are:
- a) a councillor, or
  - b) a nominee for election as a councillor, or
  - c) an administrator, or
  - d) an employee of a council, or
  - e) a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
  - f) a nominee for election as a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
  - g) a person who has a conviction for an indictable offence that is not an expired conviction.
- 3.7 A person is not precluded from being a member of the council's panel of conduct reviewers if they are a member of another council's panel of conduct reviewers.
- 3.8 An incorporated or other entity may be appointed to a council's panel of conduct reviewers where the council is satisfied that all the persons who will be undertaking the functions of a conduct reviewer on behalf of the entity meet the selection and eligibility criteria prescribed under this Part.
- 3.9 A panel of conduct reviewers established under this Part is to have a term of up to four years.

- 3.10 The council may terminate the panel of conduct reviewers at any time. Where a panel of conduct reviewers has been terminated, conduct reviewers who were members of the panel may continue to deal with any matter referred to them under these procedures prior to the termination of the panel until they have finalised their consideration of the matter.
- 3.11 When the term of the panel of conduct reviewers concludes or is terminated, the council must establish a new panel of conduct reviewers in accordance with the requirements of this Part.
- 3.12 A person who was a member of a previous panel of conduct reviewers established by the council may be a member of subsequent panels of conduct reviewers established by the council if they continue to meet the selection and eligibility criteria for membership of the panel.

#### The appointment of an internal ombudsman to a panel of conduct reviewers

- 3.13 Despite clause 3.6(d), an employee of a council who is the nominated internal ombudsman of one or more councils may be appointed to a council's panel of conduct reviewers with the Office's consent.
- 3.14 To be appointed to a council's panel of conduct reviewers, an internal ombudsman must meet the qualification requirements for conduct reviewers prescribed under clause 3.5 as modified by the operation of clause 3.13.
- 3.15 An internal ombudsman appointed to a council's panel of conduct reviewers may also exercise the functions of the council's complaints coordinator. For the purposes of clause 6.1, an internal ombudsman who is a council's complaints coordinator and has been appointed to the council's panel of conduct reviewers, may either undertake a preliminary assessment and investigation of a matter referred to them under clauses 5.26 or 5.33 or refer the matter to another conduct reviewer in accordance with clause 6.2.
- 3.16 Clause 6.4(c) does not apply to an internal ombudsman appointed to a council's panel of conduct reviewers.

#### The appointment of complaints coordinators

- 3.17 The general manager must appoint a member of staff of the council or another person (such as, but not limited to, a member of staff of another council or a member of staff of a joint organisation or other regional body associated with the council), to act as a complaints coordinator. Where the complaints coordinator is a member of staff of the council, the complaints coordinator should be a senior and suitably qualified member of staff.
- 3.18 The general manager may appoint other members of staff of the council or other persons (such as, but not limited to, members of staff of another

council or members of staff of a joint organisation or other regional body associated with the council), to act as alternates to the complaints coordinator.

- 3.19 The general manager must not undertake the role of complaints coordinator.
- 3.20 The person appointed as complaints coordinator or alternate complaints coordinator must also be a nominated disclosures coordinator appointed for the purpose of receiving and managing reports of wrongdoing under the *Public Interest Disclosures Act 1994*.
- 3.21 The role of the complaints coordinator is to:
- a) coordinate the management of complaints made under the council's code of conduct
  - b) liaise with and provide administrative support to a conduct reviewer
  - c) liaise with the Office, and
  - d) arrange the annual reporting of code of conduct complaints statistics.

#### **PART 4 HOW MAY CODE OF CONDUCT COMPLAINTS BE MADE?**

##### What is a code of conduct complaint?

- 4.1 For the purpose of these procedures, a code of conduct complaint is a complaint that shows or tends to show conduct on the part of a council official in connection with their role as a council official or the exercise of their functions as a council official that would constitute a breach of the standards of conduct prescribed under the council's code of conduct if proven.
- 4.2 The following are not "code of conduct complaints" for the purposes of these procedures:
- a) complaints about the standard or level of service provided by the council or a council official
  - b) complaints that relate solely to the merits of a decision made by the council or a council official or the exercise of a discretion by the council or a council official
  - c) complaints about the policies or procedures of the council
  - d) complaints about the conduct of a council official arising from the exercise of their functions in good faith, whether or not involving error, that would not otherwise constitute a breach of the standards of conduct prescribed under the council's code of conduct.
- 4.3 Only code of conduct complaints are to be dealt with under these procedures. Complaints that do not satisfy the definition of a code of

conduct complaint are to be dealt with under the council's routine complaints management processes.

When must a code of conduct complaint be made?

- 4.4 A code of conduct complaint must be made within 3 months of the alleged conduct occurring or within three months of the complainant becoming aware of the alleged conduct.
- 4.5 A complaint made after 3 months may only be accepted if the general manager or their delegate, or, in the case of a complaint about the general manager, the mayor or their delegate, is satisfied that the allegations are serious and compelling grounds exist for the matter to be dealt with under the code of conduct.

How may a code of conduct complaint about a council official other than the general manager be made?

- 4.6 All code of conduct complaints other than those relating to the general manager are to be made to the general manager in writing. This clause does not operate to prevent a person from making a complaint to an external agency.
- 4.7 Where a code of conduct complaint about a council official other than the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.8 In making a code of conduct complaint about a council official other than the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.9 The general manager or their delegate, or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 4.10 Notwithstanding clauses 4.6 and 4.7, where the general manager becomes aware of a possible breach of the council's code of conduct, they may initiate the process for the consideration of the matter under these procedures without a written complaint.

How may a code of conduct complaint about the general manager be made?

- 4.11 Code of conduct complaints about the general manager are to be made to the mayor in writing. This clause does not operate to prevent a person from making a complaint about the general manager to an external agency.



- 4.12 Where a code of conduct complaint about the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.13 In making a code of conduct complaint about the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.14 The mayor or their delegate, or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 4.15 Notwithstanding clauses 4.11 and 4.12, where the mayor becomes aware of a possible breach of the council's code of conduct by the general manager, they may initiate the process for the consideration of the matter under these procedures without a written complaint.

## **PART 5 HOW ARE CODE OF CONDUCT COMPLAINTS TO BE MANAGED?**

### Delegation by general managers and mayors of their functions under this Part

- 5.1 A general manager or mayor may delegate their functions under this Part to a member of staff of the council or to a person or persons external to the council other than an external agency. References in this Part to the general manager or mayor are also to be taken to be references to their delegates.

### Consideration of complaints by general managers and mayors

- 5.2 In exercising their functions under this Part, general managers and mayors may consider the complaint assessment criteria prescribed under clause 6.31.

### What complaints may be declined at the outset?

- 5.3 Without limiting any other provision in these procedures, the general manager or, in the case of a complaint about the general manager, the mayor, may decline to deal with a complaint under these procedures where they are satisfied that the complaint:
- a) is not a code of conduct complaint, or
  - b) subject to clause 4.5, is not made within 3 months of the alleged conduct occurring or the complainant becoming aware of the alleged conduct, or
  - c) is trivial, frivolous, vexatious or not made in good faith, or
  - d) relates to a matter the substance of which has previously been considered and addressed by the council and does not warrant further action, or

- e) is not made in a way that would allow the alleged conduct and any alleged breaches of the council's code of conduct to be readily identified.

How are code of conduct complaints about staff (other than the general manager) to be dealt with?

- 5.4 The general manager is responsible for the management of code of conduct complaints about members of staff of council (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct) and for determining the outcome of such complaints.
- 5.5 The general manager must refer code of conduct complaints about members of staff of council alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct to the Office.
- 5.6 The general manager may decide to take no action in relation to a code of conduct complaint about a member of staff of council other than one requiring referral to the Office under clause 5.5 where they consider that no action is warranted in relation to the complaint.
- 5.7 Where the general manager decides to take no action in relation to a code of conduct complaint about a member of staff of council, the general manager must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.
- 5.8 Code of conduct complaints about members of staff of council must be managed in accordance with the relevant industrial instrument or employment contract and make provision for procedural fairness including the right of an employee to be represented by their union.
- 5.9 Sanctions for breaches of the code of conduct by staff depend on the severity, scale and importance of the breach and must be determined in accordance with any relevant industrial instruments or contracts.

How are code of conduct complaints about delegates of council, council advisers and council committee members to be dealt with?

- 5.10 The general manager is responsible for the management of code of conduct complaints about delegates of council and council committee members (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct) and for determining the outcome of such complaints.
- 5.11 The general manager must refer code of conduct complaints about council advisers, delegates of council and council committee members alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct to the Office.



- 5.12 The general manager may decide to take no action in relation to a code of conduct complaint about a delegate of council or a council committee member other than one requiring referral to the Office under clause 5.11 where they consider that no action is warranted in relation to the complaint.
- 5.13 Where the general manager decides to take no action in relation to a code of conduct complaint about a delegate of council or a council committee member, the general manager must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.
- 5.14 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about delegates of council or council committee members, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.15 Where the general manager resolves a code of conduct complaint under clause 5.14 to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.16 Sanctions for breaches of the code of conduct by delegates of council and/or council committee members depend on the severity, scale and importance of the breach and may include one or more of the following:
- a) censure
  - b) requiring the person to apologise to any person or organisation adversely affected by the breach in such a time and form specified by the general manager
  - c) prosecution for any breach of the law
  - d) removing or restricting the person's delegation
  - e) removing the person from membership of the relevant council committee.
- 5.17 Prior to imposing a sanction against a delegate of council or a council committee member under clause 5.16, the general manager or any person making enquiries on behalf of the general manager must comply with the requirements of procedural fairness. In particular:
- a) the substance of the allegation (including the relevant provision/s of the council's code of conduct that the alleged conduct is in breach of) must be put to the person who is the subject of the allegation, and

- b) the person must be given an opportunity to respond to the allegation, and
- c) the general manager must consider the person's response in deciding whether to impose a sanction under clause 5.16.

How are code of conduct complaints about administrators to be dealt with?

- 5.18 The general manager must refer all code of conduct complaints about administrators to the Office for its consideration.
- 5.19 The general manager must notify the complainant of the referral of their complaint in writing.

How are code of conduct complaints about councillors to be dealt with?

- 5.20 The general manager must refer the following code of conduct complaints about councillors to the Office:
  - a) complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct
  - b) complaints alleging a failure to comply with a requirement under the code of conduct to disclose and appropriately manage conflicts of interest arising from political donations (see section 328B of the LGA)
  - c) complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct
  - d) complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49.
- 5.21 Where the general manager refers a complaint to the Office under clause 5.20, the general manager must notify the complainant of the referral in writing.
- 5.22 The general manager may decide to take no action in relation to a code of conduct complaint about a councillor, other than one requiring referral to the Office under clause 5.20, where they consider that no action is warranted in relation to the complaint.
- 5.23 Where the general manager decides to take no action in relation to a code of conduct complaint about a councillor, the general manager must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.24 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about councillors, other than those requiring referral to the Office under clause 5.20, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the

offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.

- 5.25 Where the general manager resolves a code of conduct complaint under clause 5.24 to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.26 The general manager must refer all code of conduct complaints about councillors, other than those referred to the Office under clause 5.20 or finalised under clause 5.23 or resolved under clause 5.24, to the complaints coordinator.

How are code of conduct complaints about the general manager to be dealt with?

- 5.27 The mayor must refer the following code of conduct complaints about the general manager to the Office:
- a) complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct
  - b) complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct
  - c) complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49.
- 5.28 Where the mayor refers a complaint to the Office under clause 5.27, the mayor must notify the complainant of the referral in writing.
- 5.29 The mayor may decide to take no action in relation to a code of conduct complaint about the general manager, other than one requiring referral to the Office under clause 5.27, where they consider that no action is warranted in relation to the complaint.
- 5.30 Where the mayor decides to take no action in relation to a code of conduct complaint about the general manager, the mayor must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.31 Where the mayor considers it to be practicable and appropriate to do so, the mayor may seek to resolve code of conduct complaints about the general manager, other than those requiring referral to the Office under clause 5.27, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to

be taken as a determination that there has been a breach of the council's code of conduct.

- 5.32 Where the mayor resolves a code of conduct complaint under clause 5.31 to the mayor's satisfaction, the mayor must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.33 The mayor must refer all code of conduct complaints about the general manager, other than those referred to the Office under clause 5.27 or finalised under clause 5.30 or resolved under clause 5.31, to the complaints coordinator.

How are complaints about both the general manager and the mayor to be dealt with?

- 5.34 Where the general manager or mayor receives a code of conduct complaint that alleges a breach of the code of conduct by both the general manager and the mayor, the general manager or mayor must either:
- a) delegate their functions under this part with respect to the complaint to a member of staff of the council other than the general manager where the allegation is not serious, or to a person external to the council, or
  - b) refer the matter to the complaints coordinator under clause 5.26 and clause 5.33.

Referral of code of conduct complaints to external agencies

- 5.35 The general manager, mayor or a conduct reviewer may, at any time, refer a code of conduct complaint to an external agency for its consideration, where they consider such a referral is warranted.
- 5.36 The general manager, mayor or a conduct reviewer must report to the ICAC any matter that they suspect on reasonable grounds concerns or may concern corrupt conduct.
- 5.37 Where the general manager, mayor or conduct reviewer refers a complaint to an external agency under clause 5.35, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.
- 5.38 Referral of a matter to an external agency shall finalise consideration of the matter under these procedures unless the council is subsequently advised otherwise by the referral agency.



Disclosure of the identity of complainants

- 5.39 In dealing with matters under these procedures, information that identifies or tends to identify complainants is not to be disclosed unless:
- a) the complainant consents in writing to the disclosure, or
  - b) it is generally known that the complainant has made the complaint as a result of the complainant having voluntarily identified themselves as the person who made the complaint, or
  - c) it is essential, having regard to procedural fairness requirements, that the identifying information be disclosed, or
  - d) a conduct reviewer is of the opinion that disclosure of the information is necessary to investigate the matter effectively, or
  - e) it is otherwise in the public interest to do so.
- 5.40 Clause 5.39 does not apply to code of conduct complaints made by councillors about other councillors or the general manager.
- 5.41 Where a councillor makes a code of conduct complaint about another councillor or the general manager, and the complainant councillor considers that compelling grounds exist that would warrant information that identifies or tends to identify them as the complainant not to be disclosed, they may request in writing that such information not be disclosed.
- 5.42 A request made by a complainant councillor under clause 5.41 must be made at the time they make a code of conduct complaint and must state the grounds upon which the request is made.
- 5.43 The general manager or mayor, and where the matter is referred to a conduct reviewer, the conduct reviewer, must consider a request made under clause 5.41 before disclosing information that identifies or tends to identify the complainant councillor, but they are not obliged to comply with the request.
- 5.44 Where a complainant councillor makes a request under clause 5.41, the general manager or mayor or, where the matter is referred to a conduct reviewer, the conduct reviewer, shall notify the councillor in writing of their intention to disclose information that identifies or tends to identify them prior to disclosing the information.

Code of conduct complaints made as public interest disclosures

- 5.45 These procedures do not override the provisions of the *Public Interest Disclosures Act 1994*. Code of conduct complaints that are made as public interest disclosures under that Act are to be managed in accordance with the requirements of that Act, the council's internal reporting policy, and any guidelines issued by the NSW Ombudsman that relate to the management of public interest disclosures.

- 5.46 Where a councillor makes a code of conduct complaint about another councillor or the general manager as a public interest disclosure, before the matter may be dealt with under these procedures, the complainant councillor must consent in writing to the disclosure of their identity as the complainant.
- 5.47 Where a complainant councillor declines to consent to the disclosure of their identity as the complainant under clause 5.46, the general manager or the mayor must refer the complaint to the Office for consideration. Such a referral must be made under section 26 of the *Public Interest Disclosures Act 1994*.

#### Special complaints management arrangements

- 5.48 The general manager may request in writing that the Office enter into a special complaints management arrangement with the council in relation to code of conduct complaints made by or about a person or persons.
- 5.49 Where the Office receives a request under clause 5.48, it may agree to enter into a special complaints management arrangement if it is satisfied that the number or nature of code of conduct complaints made by or about a person or persons has:
- a) imposed an undue and disproportionate cost burden on the council's administration of its code of conduct, or
  - b) impeded or disrupted the effective administration by the council of its code of conduct, or
  - c) impeded or disrupted the effective functioning of the council.
- 5.50 A special complaints management arrangement must be in writing and must specify the following:
- a) the code of conduct complaints the arrangement relates to, and
  - b) the period that the arrangement will be in force.
- 5.51 The Office may, by notice in writing, amend or terminate a special complaints management arrangement at any time.
- 5.52 While a special complaints management arrangement is in force, an officer of the Office (the assessing OLG officer) must undertake the preliminary assessment of the code of conduct complaints specified in the arrangement in accordance with the requirements of Part 6 of these procedures.
- 5.53 Where, following a preliminary assessment, the assessing OLG officer determines that a code of conduct complaint warrants investigation by a conduct reviewer, the assessing OLG officer shall notify the complaints coordinator in writing of their determination and the reasons for their determination. The complaints coordinator must comply with the recommendation of the assessing OLG officer.



- 5.54 Prior to the expiry of a special complaints management arrangement, the Office may, at the request of the general manager, review the arrangement to determine whether it should be renewed or amended.
- 5.55 A special complaints management arrangement shall expire on the date specified in the arrangement unless renewed under clause 5.54.

**PART 6 PRELIMINARY ASSESSMENT OF CODE OF CONDUCT COMPLAINTS ABOUT COUNCILLORS OR THE GENERAL MANAGER BY CONDUCT REVIEWERS**

Referral of code of conduct complaints about councillors or the general manager to conduct reviewers

- 6.1 The complaints coordinator must refer all code of conduct complaints about councillors or the general manager that have not been referred to an external agency or declined or resolved by the general manager, mayor or their delegate and that have been referred to them under clauses 5.26 or 5.33, to a conduct reviewer within 21 days of receipt of the complaint by the general manager or the mayor.
- 6.2 For the purposes of clause 6.1, the complaints coordinator will refer a complaint to a conduct reviewer selected from:
- a) a panel of conduct reviewers established by the council, or
  - b) a panel of conduct reviewers established by an organisation approved by the Office.
- 6.3 In selecting a suitable conduct reviewer, the complaints coordinator may have regard to the qualifications and experience of members of the panel of conduct reviewers. Where the conduct reviewer is an incorporated or other entity, the complaints coordinator must also ensure that the person assigned to receive the referral on behalf of the entity meets the selection and eligibility criteria for conduct reviewers prescribed under Part 3 of these procedures.
- 6.4 A conduct reviewer must not accept the referral of a code of conduct complaint where:
- a) they have a conflict of interest in relation to the matter referred to them, or
  - b) a reasonable apprehension of bias arises in relation to their consideration of the matter, or
  - c) they or their employer has entered into one or more contracts with the council (other than contracts relating to the exercise of their functions as a conduct reviewer) in the 2 years preceding the referral, and they or their employer have received or expect to receive payments under the contract or contracts of a value that, when aggregated, exceeds \$100,000, or

- d) at the time of the referral, they or their employer are the council's legal service provider or are a member of a panel of legal service providers appointed by the council.
- 6.5 For the purposes of clause 6.4(a), a conduct reviewer will have a conflict of interest in a matter where a reasonable and informed person would perceive that they could be influenced by a private interest when carrying out their public duty (see clause 5.2 of the Model Code of Conduct).
- 6.6 For the purposes of clause 6.4(b), a reasonable apprehension of bias arises where a fair-minded observer might reasonably apprehend that the conduct reviewer might not bring an impartial and unprejudiced mind to the matter referred to the conduct reviewer.
- 6.7 Where the complaints coordinator refers a matter to a conduct reviewer, they will provide the conduct reviewer with a copy of the code of conduct complaint and any other information relevant to the matter held by the council, including any information about previous proven breaches and any information that would indicate that the alleged conduct forms part of an ongoing pattern of behaviour.
- 6.8 The complaints coordinator must notify the complainant in writing that the matter has been referred to a conduct reviewer, and advise which conduct reviewer the matter has been referred to.
- 6.9 Conduct reviewers must comply with these procedures in their consideration of matters that have been referred to them and exercise their functions in a diligent and timely manner.
- 6.10 The complaints coordinator may at any time terminate the referral of a matter to a conduct reviewer and refer the matter to another conduct reviewer where the complaints coordinator is satisfied that the conduct reviewer has failed to:
  - a) comply with these procedures in their consideration of the matter, or
  - b) comply with a lawful and reasonable request by the complaints coordinator, or
  - c) exercise their functions in a timely or satisfactory manner.
- 6.11 Where the complaints coordinator terminates a referral to a conduct reviewer under clause 6.10, they must notify the complainant and any other affected person in writing of their decision and the reasons for it and advise them which conduct reviewer the matter has been referred to instead.

Preliminary assessment of code of conduct complaints about councillors or the general manager by a conduct reviewer

- 6.12 The conduct reviewer is to undertake a preliminary assessment of a complaint referred to them by the complaints coordinator for the purposes of determining how the complaint is to be managed.
- 6.13 The conduct reviewer may determine to do one or more of the following in relation to a complaint referred to them by the complaints coordinator:
- a) to take no action
  - b) to resolve the complaint by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
  - c) to refer the matter back to the general manager or, in the case of a complaint about the general manager, the mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
  - d) to refer the matter to an external agency
  - e) to investigate the matter.
- 6.14 In determining how to deal with a matter under clause 6.13, the conduct reviewer must have regard to the complaint assessment criteria prescribed under clause 6.31.
- 6.15 The conduct reviewer may make such enquiries the conduct reviewer considers to be reasonably necessary to determine what options to exercise under clause 6.13.
- 6.16 The conduct reviewer may request the complaints coordinator to provide such additional information the conduct reviewer considers to be reasonably necessary to determine what options to exercise in relation to the matter under clause 6.13. The complaints coordinator will, as far as is reasonably practicable, supply any information requested by the conduct reviewer.
- 6.17 The conduct reviewer must refer to the Office any complaints referred to them that should have been referred to the Office under clauses 5.20 and 5.27.
- 6.18 The conduct reviewer must determine to take no action on a complaint that is not a code of conduct complaint for the purposes of these procedures.
- 6.19 The resolution of a code of conduct complaint under clause 6.13, paragraphs (b) or (c) is not to be taken as a determination that there has been a breach of the council's code of conduct.

- 6.20 Where the conduct reviewer completes their preliminary assessment of a complaint by determining to exercise an option under clause 6.13, paragraphs (a), (b) or (c), they must provide the complainant with written notice of their determination and provide reasons for it, and this will finalise consideration of the matter under these procedures.
- 6.21 Where the conduct reviewer refers a complaint to an external agency, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.
- 6.22 The conduct reviewer may only determine to investigate a matter where they are satisfied as to the following:
- a) that the complaint is a code of conduct complaint for the purposes of these procedures, and
  - b) that the alleged conduct is sufficiently serious to warrant the formal censure of a councillor under section 440G of the LGA or disciplinary action against the general manager under their contract of employment if it were to be proven, and
  - c) that the matter is one that could not or should not be resolved by alternative means.
- 6.23 In determining whether a matter is sufficiently serious to warrant formal censure of a councillor under section 440G of the LGA or disciplinary action against the general manager under their contract of employment, the conduct reviewer is to consider the following:
- a) the harm or cost that the alleged conduct has caused to any affected individuals and/or the council
  - b) the likely impact of the alleged conduct on the reputation of the council and public confidence in it
  - c) whether the alleged conduct was deliberate or undertaken with reckless intent or negligence
  - d) any previous proven breaches by the person whose alleged conduct is the subject of the complaint and/or whether the alleged conduct forms part of an ongoing pattern of behaviour.
- 6.24 The conduct reviewer must complete their preliminary assessment of the complaint within 28 days of referral of the matter to them by the complaints coordinator and notify the complaints coordinator in writing of the outcome of their assessment.
- 6.25 The conduct reviewer is not obliged to give prior notice to or to consult with any person before making a determination in relation to their preliminary assessment of a complaint, except as may be specifically required under these procedures.

Referral back to the general manager or mayor for resolution

- 6.26 Where the conduct reviewer determines to refer a matter back to the general manager or to the mayor to be resolved by alternative and



appropriate means, they must write to the general manager or, in the case of a complaint about the general manager, to the mayor, recommending the means by which the complaint may be resolved.

- 6.27 The conduct reviewer must consult with the general manager or mayor prior to referring a matter back to them under clause 6.13(c).
- 6.28 The general manager or mayor may decline to accept the conduct reviewer's recommendation. In such cases, the conduct reviewer may determine to deal with the complaint by other means under clause 6.13.
- 6.29 Where the conduct reviewer refers a matter back to the general manager or mayor under clause 6.13(c), the general manager or, in the case of a complaint about the general manager, the mayor, is responsible for implementing or overseeing the implementation of the conduct reviewer's recommendation.
- 6.30 Where the conduct reviewer refers a matter back to the general manager or mayor under clause 6.13(c), the general manager, or, in the case of a complaint about the general manager, the mayor, must advise the complainant in writing of the steps taken to implement the conduct reviewer's recommendation once these steps have been completed.

#### Complaints assessment criteria

- 6.31 In undertaking the preliminary assessment of a complaint, the conduct reviewer must have regard to the following considerations:
  - a) whether the complaint is a code of conduct complaint for the purpose of these procedures
  - b) whether the complaint has been made in a timely manner in accordance with clause 4.4, and if not, whether the allegations are sufficiently serious for compelling grounds to exist for the matter to be dealt with under the council's code of conduct
  - c) whether the complaint is trivial, frivolous, vexatious or not made in good faith
  - d) whether the complaint discloses prima facie evidence of conduct that, if proven, would constitute a breach of the code of conduct
  - e) whether the complaint raises issues that would be more appropriately dealt with by an external agency
  - f) whether there is or was an alternative and satisfactory means of redress available in relation to the conduct complained of
  - g) whether the complaint is one that can be resolved by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
  - h) whether the issue/s giving rise to the complaint have previously been addressed or resolved
  - i) any previous proven breaches of the council's code of conduct
  - j) whether the conduct complained of forms part of an ongoing pattern of behaviour

- k) whether there were mitigating circumstances giving rise to the conduct complained of
- l) the seriousness of the alleged conduct (having regard to the criteria specified in clause 6.23)
- m) the significance of the conduct or the impact of the conduct for the council
- n) how much time has passed since the alleged conduct occurred
- o) such other considerations that the conduct reviewer considers may be relevant to the assessment of the complaint.

## **PART 7      INVESTIGATIONS OF CODE OF CONDUCT COMPLAINTS ABOUT COUNCILLORS OR THE GENERAL MANAGER**

### What matters may a conduct reviewer investigate?

- 7.1 A conduct reviewer (hereafter referred to as an “investigator”) may investigate a code of conduct complaint that has been referred to them by the complaints coordinator and any matters related to or arising from that complaint.
- 7.2 Where an investigator identifies further separate possible breaches of the code of conduct that are not related to or do not arise from the code of conduct complaint that has been referred to them, they are to report the matters separately in writing to the general manager, or, in the case of alleged conduct on the part of the general manager, to the mayor.
- 7.3 The general manager or the mayor or their delegate is to deal with a matter reported to them by an investigator under clause 7.2 as if it were a new code of conduct complaint in accordance with these procedures.

### How are investigations to be commenced?

- 7.4 The investigator must at the outset of their investigation provide a written notice of investigation to the respondent. The notice of investigation must:
  - a) disclose the substance of the allegations against the respondent, and
  - b) advise of the relevant provisions of the code of conduct that apply to the alleged conduct, and
  - c) advise of the process to be followed in investigating the matter, and
  - d) advise the respondent of the requirement to maintain confidentiality, and
  - e) invite the respondent to make a written submission in relation to the matter within a period of not less than 14 days specified by the investigator in the notice, and
  - f) provide the respondent the opportunity to address the investigator on the matter within such reasonable time specified in the notice.



- 7.5 The respondent may, within 7 days of receipt of the notice of investigation, request in writing that the investigator provide them with such further information they consider necessary to assist them to identify the substance of the allegation against them. An investigator will only be obliged to provide such information that the investigator considers reasonably necessary for the respondent to identify the substance of the allegation against them.
- 7.6 An investigator may at any time prior to issuing a draft report, issue an amended notice of investigation to the respondent in relation to the matter referred to them.
- 7.7 Where an investigator issues an amended notice of investigation, they must provide the respondent with a further opportunity to make a written submission in response to the amended notice of investigation within a period of not less than 14 days specified by the investigator in the amended notice.
- 7.8 The investigator must also, at the outset of their investigation, provide written notice of the investigation to the complainant, the complaints coordinator and the general manager, or in the case of a complaint about the general manager, to the complainant, the complaints coordinator and the mayor. The notice must:
- a) advise them of the matter the investigator is investigating, and
  - b) in the case of the notice to the complainant, advise them of the requirement to maintain confidentiality, and
  - c) invite the complainant to make a written submission in relation to the matter within a period of not less than 14 days specified by the investigator in the notice.

#### Written and oral submissions

- 7.9 Where the respondent or the complainant fails to make a written submission in relation to the matter within the period specified by the investigator in their notice of investigation or amended notice of investigation, the investigator may proceed to prepare their draft report without receiving such submissions.
- 7.10 The investigator may accept written submissions received outside the period specified in the notice of investigation or amended notice of investigation.
- 7.11 Prior to preparing a draft report, the investigator must give the respondent an opportunity to address the investigator on the matter being investigated. The respondent may do so in person or by telephone or other electronic means.
- 7.12 Where the respondent fails to accept the opportunity to address the investigator within the period specified by the investigator in the notice of

investigation, the investigator may proceed to prepare a draft report without hearing from the respondent.

- 7.13 Where the respondent accepts the opportunity to address the investigator in person, they may have a support person or legal adviser in attendance. The support person or legal adviser will act in an advisory or support role to the respondent only. They must not speak on behalf of the respondent or otherwise interfere with or disrupt proceedings.
- 7.14 The investigator must consider all written and oral submissions made to them in relation to the matter.

How are investigations to be conducted?

- 7.15 Investigations are to be undertaken without undue delay.
- 7.16 Investigations are to be undertaken in the absence of the public and in confidence.
- 7.17 Investigators must make any such enquiries that may be reasonably necessary to establish the facts of the matter.
- 7.18 Investigators may seek such advice or expert guidance that may be reasonably necessary to assist them with their investigation or the conduct of their investigation.
- 7.19 An investigator may request that the complaints coordinator provide such further information that the investigator considers may be reasonably necessary for them to establish the facts of the matter. The complaints coordinator will, as far as is reasonably practicable, provide the information requested by the investigator.

Referral or resolution of a matter after the commencement of an investigation

- 7.20 At any time after an investigator has issued a notice of investigation and before they have issued their final report, an investigator may determine to:
- a) resolve the matter by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, or
  - b) refer the matter to the general manager, or, in the case of a complaint about the general manager, to the mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, or
  - c) refer the matter to an external agency.

- 7.21 Where an investigator determines to exercise any of the options under clause 7.20 after the commencement of an investigation, they must do so in accordance with the requirements of Part 6 of these procedures relating to the exercise of these options at the preliminary assessment stage.
- 7.22 The resolution of a code of conduct complaint under clause 7.20, paragraphs (a) or (b) is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 7.23 Where an investigator determines to exercise any of the options under clause 7.20 after the commencement of an investigation, they may by written notice to the respondent, the complainant, the complaints coordinator and the general manager, or in the case of a complaint about the general manager, to the respondent, the complainant, the complaints coordinator and the mayor, discontinue their investigation of the matter.
- 7.24 Where the investigator discontinues their investigation of a matter under clause 7.23, this shall finalise the consideration of the matter under these procedures.
- 7.25 An investigator is not obliged to give prior notice to or to consult with any person before making a determination to exercise any of the options under clause 7.20 or to discontinue their investigation except as may be specifically required under these procedures.

#### Draft investigation reports

- 7.26 When an investigator has completed their enquiries and considered any written or oral submissions made to them in relation to a matter, they must prepare a draft of their proposed report.
- 7.27 The investigator must provide their draft report to the respondent and invite them to make a written submission in relation to it within a period of not less than 14 days specified by the investigator.
- 7.28 Where the investigator proposes to make adverse comment about any other person (an affected person) in their report, they must also provide the affected person with relevant extracts of their draft report containing such comment and invite the affected person to make a written submission in relation to it within a period of not less than 14 days specified by the investigator.
- 7.29 The investigator must consider written submissions received in relation to the draft report prior to finalising their report in relation to the matter.
- 7.30 The investigator may, after consideration of all written submissions received in relation to their draft report, make further enquiries into the matter. If, as a result of making further enquiries, the investigator makes any material change to their proposed report that makes new adverse comment about the respondent or an affected person, they must provide

the respondent or affected person as the case may be with a further opportunity to make a written submission in relation to the new adverse comment.

- 7.31 Where the respondent or an affected person fails to make a written submission in relation to the draft report within the period specified by the investigator, the investigator may proceed to prepare and issue their final report without receiving such submissions.
- 7.32 The investigator may accept written submissions in relation to the draft report received outside the period specified by the investigator at any time prior to issuing their final report.

#### Final investigation reports

- 7.33 Where an investigator issues a notice of investigation, they must prepare a final report in relation to the matter unless the investigation is discontinued under clause 7.23.
- 7.34 An investigator must not prepare a final report in relation to the matter at any time before they have finalised their consideration of the matter in accordance with the requirements of these procedures.
- 7.35 The investigator's final report must:
- a) make findings of fact in relation to the matter investigated, and,
  - b) make a determination that the conduct investigated either,
    - i. constitutes a breach of the code of conduct, or
    - ii. does not constitute a breach of the code of conduct, and
  - c) provide reasons for the determination.
- 7.36 At a minimum, the investigator's final report must contain the following information:
- a) a description of the allegations against the respondent
  - b) the relevant provisions of the code of conduct that apply to the alleged conduct investigated
  - c) a statement of reasons as to why the matter warranted investigation (having regard to the criteria specified in clause 6.23)
  - d) a statement of reasons as to why the matter was one that could not or should not be resolved by alternative means
  - e) a description of any attempts made to resolve the matter by use of alternative means
  - f) the steps taken to investigate the matter
  - g) the facts of the matter
  - h) the investigator's findings in relation to the facts of the matter and the reasons for those findings
  - i) the investigator's determination and the reasons for that determination
  - j) any recommendations.



- 7.37 Where the investigator determines that the conduct investigated constitutes a breach of the code of conduct, the investigator may recommend:
- a) in the case of a breach by the general manager, that disciplinary action be taken under the general manager's contract of employment for the breach, or
  - b) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA, or
  - c) in the case of a breach by a councillor, that the council resolves as follows:
    - i. that the councillor be formally censured for the breach under section 440G of the LGA, and
    - ii. that the matter be referred to the Office for further action under the misconduct provisions of the LGA.
- 7.38 Where the investigator proposes to make a recommendation under clause 7.37(c), the investigator must first consult with the Office on their proposed findings, determination and recommendation prior to finalising their report, and must take any comments by the Office into consideration when finalising their report.
- 7.39 Where the investigator has determined that there has been a breach of the code of conduct, the investigator may, in addition to making a recommendation under clause 7.37, recommend that the council revise any of its policies, practices or procedures.
- 7.40 Where the investigator determines that the conduct investigated does not constitute a breach of the code of conduct, the investigator may recommend:
- a) that the council revise any of its policies, practices or procedures
  - b) that a person or persons undertake any training or other education.
- 7.41 The investigator must provide a copy of their report to the complaints coordinator and the respondent.
- 7.42 At the time the investigator provides a copy of their report to the complaints coordinator and the respondent, the investigator must provide the complainant with a written statement containing the following information:
- a) the investigator's findings in relation to the facts of the matter and the reasons for those findings
  - b) the investigator's determination and the reasons for that determination
  - c) any recommendations, and
  - d) such other additional information that the investigator considers may be relevant.

- 7.43 Where the investigator has determined that there has not been a breach of the code of conduct, the complaints coordinator must provide a copy of the investigator's report to the general manager or, where the report relates to the general manager's conduct, to the mayor, and this will finalise consideration of the matter under these procedures.
- 7.44 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation under clause 7.37, the complaints coordinator must, where practicable, arrange for the investigator's report to be reported to the next ordinary council meeting for the council's consideration, unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case the report must be reported to the first ordinary council meeting following the election.
- 7.45 Where it is apparent to the complaints coordinator that the council will not be able to form a quorum to consider the investigator's report, the complaints coordinator must refer the investigator's report to the Office for its consideration instead of reporting it to the council under clause 7.44.

#### Consideration of the final investigation report by council

- 7.46 The role of the council in relation to a final investigation report is to impose a sanction if the investigator has determined that there has been a breach of the code of conduct and has made a recommendation in their final report under clause 7.37.
- 7.47 The council is to close its meeting to the public to consider the final investigation report in cases where it is permitted to do so under section 10A of the LGA.
- 7.48 Where the complainant is a councillor, they must absent themselves from the meeting and take no part in any discussion or voting on the matter. The complainant councillor may absent themselves without making any disclosure of interest in relation to the matter unless otherwise required to do so under the code of conduct.
- 7.49 Prior to imposing a sanction, the council must provide the respondent with an opportunity to make a submission to the council. A submission may be made orally or in writing. The respondent is to confine their submission to addressing the investigator's recommendation.
- 7.50 Once the respondent has made their submission they must absent themselves from the meeting and, where they are a councillor, take no part in any discussion or voting on the matter.
- 7.51 The council must not invite submissions from other persons for the purpose of seeking to rehear evidence previously considered by the investigator.



- 7.52 Prior to imposing a sanction, the council may by resolution:
- a) request that the investigator make additional enquiries and/or provide additional information to it in a supplementary report, or
  - b) seek an opinion from the Office in relation to the report.
- 7.53 The council may, by resolution, defer further consideration of the matter pending the receipt of a supplementary report from the investigator or an opinion from the Office.
- 7.54 The investigator may make additional enquiries for the purpose of preparing a supplementary report.
- 7.55 Where the investigator prepares a supplementary report, they must provide copies to the complaints coordinator who shall provide a copy each to the council and the respondent.
- 7.56 The investigator is not obliged to notify or consult with any person prior to submitting the supplementary report to the complaints coordinator.
- 7.57 The council is only required to provide the respondent a further opportunity to make an oral or written submission on a supplementary report if the supplementary report contains new information that is adverse to them.
- 7.58 A council may by resolution impose one of the following sanctions on a respondent:
- a) in the case of a breach by the general manager, that disciplinary action be taken under the general manager's contract of employment for the breach, or
  - b) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA, or
  - c) in the case of a breach by a councillor:
    - i. that the councillor be formally censured for the breach under section 440G of the LGA, and
    - ii. that the matter be referred to the Office for further action under the misconduct provisions of the LGA.
- 7.59 Where the council censures a councillor under section 440G of the LGA, the council must specify in the censure resolution the grounds on which it is satisfied that the councillor should be censured by disclosing in the resolution, the investigator's findings and determination and/or such other grounds that the council considers may be relevant or appropriate.
- 7.60 The council is not obliged to adopt the investigator's recommendation. Where the council proposes not to adopt the investigator's recommendation, the council must resolve not to adopt the recommendation and state in its resolution the reasons for its decision.

- 7.61 Where the council resolves not to adopt the investigator's recommendation, the complaints coordinator must notify the Office of the council's decision and the reasons for it.

## **PART 8      OVERSIGHT AND RIGHTS OF REVIEW**

### The Office's powers of review

- 8.1 The Office may, at any time, whether or not in response to a request, review the consideration of a matter under a council's code of conduct where it is concerned that a person has failed to comply with a requirement prescribed under these procedures or has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct in their consideration of a matter.
- 8.2 The Office may direct any person, including the council, to defer taking further action in relation to a matter under consideration under the council's code of conduct pending the completion of its review. Any person the subject of a direction must comply with the direction.
- 8.3 Where the Office undertakes a review of a matter under clause 8.1, it will notify the complaints coordinator and any other affected persons, of the outcome of the review.

### Complaints about conduct reviewers

- 8.4 The general manager or their delegate must refer code of conduct complaints about conduct reviewers to the Office for its consideration.
- 8.5 The general manager must notify the complainant of the referral of their complaint about the conduct reviewer in writing.
- 8.6 The general manager must implement any recommendation made by the Office as a result of its consideration of a complaint about a conduct reviewer.

### Practice rulings

- 8.7 Where a respondent and an investigator are in dispute over a requirement under these procedures, either person may make a request in writing to the Office to make a ruling on a question of procedure (a practice ruling).
- 8.8 Where the Office receives a request in writing for a practice ruling, the Office may provide notice in writing of its ruling and the reasons for it to the person who requested it and to the investigator, where that person is different.
- 8.9 Where the Office makes a practice ruling, all parties must comply with it.

- 8.10 The Office may decline to make a practice ruling. Where the Office declines to make a practice ruling, it will provide notice in writing of its decision and the reasons for it to the person who requested it and to the investigator, where that person is different.

Review of decisions to impose sanctions

- 8.11 A person who is the subject of a sanction imposed under Part 7 of these procedures other than one imposed under clause 7.58, paragraph (c), may, within 28 days of the sanction being imposed, seek a review of the investigator's determination and recommendation by the Office.
- 8.12 A review under clause 8.11 may be sought on the following grounds:
- a) that the investigator has failed to comply with a requirement under these procedures, or
  - b) that the investigator has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct, or
  - c) that in imposing its sanction, the council has failed to comply with a requirement under these procedures.
- 8.13 A request for a review made under clause 8.11 must be made in writing and must specify the grounds upon which the person believes the investigator or the council has erred.
- 8.14 The Office may decline to conduct a review, in cases where the grounds upon which the review is sought are not sufficiently specified.
- 8.15 The Office may undertake a review of a matter without receiving a request under clause 8.11.
- 8.16 The Office will undertake a review of the matter on the papers. However, the Office may request that the complaints coordinator provide such further information that the Office considers reasonably necessary for it to review the matter. The complaints coordinator must, as far as is reasonably practicable, provide the information requested by the Office.
- 8.17 Where a person requests a review under clause 8.11, the Office may direct the council to defer any action to implement a sanction. The council must comply with a direction to defer action by the Office.
- 8.18 The Office must notify the person who requested the review and the complaints coordinator of the outcome of the Office's review in writing and the reasons for its decision. In doing so, the Office may comment on any other matters the Office considers to be relevant.
- 8.19 Where the Office considers that the investigator or the council has erred, the Office may recommend that a decision to impose a sanction under these procedures be reviewed. Where the Office recommends that the decision to impose a sanction be reviewed:

- a) the complaints coordinator must, where practicable, arrange for the Office's determination to be tabled at the next ordinary council meeting unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case it must be tabled at the first ordinary council meeting following the election, and
- b) the council must:
  - i. review its decision to impose the sanction, and
  - ii. consider the Office's recommendation in doing so, and
  - iii. resolve to either rescind or reaffirm its previous resolution in relation to the matter.

8.20 Where, having reviewed its previous decision in relation to a matter under clause 8.19(b), the council resolves to reaffirm its previous decision, the council must state in its resolution its reasons for doing so.

## **PART 9 PROCEDURAL IRREGULARITIES**

- 9.1 A failure to comply with these procedures does not, on its own, constitute a breach of the code of conduct, except as may be otherwise specifically provided under the code of conduct.
- 9.2 A failure to comply with these procedures will not render a decision made in relation to a matter invalid where:
  - a) the non-compliance is isolated and/or minor in nature, or
  - b) reasonable steps are taken to correct the non-compliance, or
  - c) reasonable steps are taken to address the consequences of the non-compliance.

## **PART 10 PRACTICE DIRECTIONS**

- 10.1 The Office may at any time issue a practice direction in relation to the application of these procedures.
- 10.2 The Office will issue practice directions in writing, by circular to all councils.
- 10.3 All persons performing a function prescribed under these procedures must consider the Office's practice directions when performing the function.



## **PART 11 REPORTING STATISTICS ON CODE OF CONDUCT COMPLAINTS ABOUT COUNCILLORS AND THE GENERAL MANAGER**

11.1 The complaints coordinator must arrange for the following statistics to be reported to the council within 3 months of the end of September of each year:

- a) the total number of code of conduct complaints made about councillors and the general manager under the code of conduct in the year to September (the reporting period)
- b) the number of code of conduct complaints referred to a conduct reviewer during the reporting period
- c) the number of code of conduct complaints finalised by a conduct reviewer at the preliminary assessment stage during the reporting period and the outcome of those complaints
- d) the number of code of conduct complaints investigated by a conduct reviewer during the reporting period
- e) without identifying particular matters, the outcome of investigations completed under these procedures during the reporting period
- f) the number of matters reviewed by the Office during the reporting period and, without identifying particular matters, the outcome of the reviews, and
- g) the total cost of dealing with code of conduct complaints made about councillors and the general manager during the reporting period, including staff costs.

11.2 The council is to provide the Office with a report containing the statistics referred to in clause 11.1 within 3 months of the end of September of each year.

## **PART 12 CONFIDENTIALITY**

12.1 Information about code of conduct complaints and the management and investigation of code of conduct complaints is to be treated as confidential and is not to be publicly disclosed except as may be otherwise specifically required or permitted under these procedures.

12.2 Where a complainant publicly discloses information on one or more occasions about a code of conduct complaint they have made or purported to make, the general manager or their delegate may, with the consent of the Office, determine that the complainant is to receive no further information about their complaint and any future code of conduct complaint they make or purport to make.

12.3 Prior to seeking the Office's consent under clause 12.2, the general manager or their delegate must give the complainant written notice of their intention to seek the Office's consent, invite them to make a written submission within a period of not less than 14 days specified by the

general manager or their delegate, and consider any submission made by them.

- 12.4 In giving its consent under clause 12.2, the Office must consider any submission made by the complainant to the general manager or their delegate.
- 12.5 The general manager or their delegate must give written notice of a determination made under clause 12.2 to:
- a) the complainant
  - b) the complaints coordinator
  - c) the Office, and
  - d) any other person the general manager or their delegate considers should be notified of the determination.
- 12.6 Any requirement under these procedures that a complainant is to be provided with information about a code of conduct complaint that they have made or purported to make, will not apply to a complainant the subject of a determination made by the general manager or their delegate under clause 12.2.
- 12.7 Clause 12.6 does not override any entitlement a person may have to access to council information under the *Government Information (Public Access) Act 2009* or to receive information under the *Public Interest Disclosures Act 1994* in relation to a complaint they have made.





Item No: C09/20-534

## DRAFT GOODS ON DISPLAY POLICY

Responsible Division: Finance & Governance  
Officer: Director Finance & Governance  
File Number: 8406740  
Community Strategic Plan Goal: *Transparent and accountable leadership*

## SUMMARY

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The *Draft Goods on Display Policy* has been developed to provide the community and business owners clarity and guidance around the standards applicable when presenting goods on display within the Cumberland Local Government Area.

This report recommends that the *Draft Goods on Display Policy* be placed on public exhibition for consultation with the community.

## RECOMMENDATION

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### That Council:

1. Place the *Draft Goods on Display Policy* with the supporting Guidelines on public exhibition for a period of 28 days, with a report to be provided back to Council following the conclusion of the exhibition period.
2. Provide notification to local businesses and invite them to comment.

## REPORT

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The *Draft Goods on Display Policy* outlines Council's design guidelines and controls to assist in establishing the display of goods on footpaths for local businesses. Whilst Council actively supports local businesses and strongly believes in activating the local economy, it is imperative that adequate controls are maintained at all times for the safety and amenity of the community.

Council will apply this Policy to ensure the appropriate establishment of businesses displaying goods in Cumberland's commercial centres, which comply with the relevant legislation, and make a positive contribution to these centres and promote trade.

Supporting the Draft Policy are the *Draft Goods on Display Guidelines*, which are also attached to this report as attachment 2. The Guidelines provide further detail in relation to the implementation of the Policy position of Council.

The *Draft Goods on Display Policy* aims to provide a uniform approach and standards for goods on display across the Cumberland Local Government Area, leading to better streetscapes in Council's town centres.

The Draft Policy was discussed with Council at a Councillor briefing held on the 12<sup>th</sup> August 2020. It is now recommended that the Draft Policy proceed to a public exhibition process for consultation with the community.

## COMMUNITY ENGAGEMENT

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The *Draft Goods on Display Policy* and the supporting Guidelines will be placed on public exhibition for a period of 28 days on Council's 'Have Your Say' community engagement website, to enable the community to have an opportunity for input.

## POLICY IMPLICATIONS

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There are no policy implications for Council associated with this report.

## RISK IMPLICATIONS

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By having a Goods on Display Policy position in place, it will provide clear information and standards for any business owner within the local government area to adhere to. Having a policy in place will improve the operations of goods on display as well as improve compliance outcomes.

## FINANCIAL IMPLICATIONS

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There are no financial implications for Council associated with this report.

## CONCLUSION

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The *Draft Goods on Display Policy* has been developed to provide the local community and businesses guidance around the standards applicable when presenting goods on display within the Cumberland Local Government Area. It is now recommended that the Draft Policy and Guidelines proceed to public exhibition.

## ATTACHMENTS

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1. Draft Goods on Display Policy [↓](#)
2. Draft Goods on Display Guidelines [↓](#)

DOCUMENTS  
ASSOCIATED WITH  
REPORT C09/20-534

Attachment 1  
Draft Goods on Display Policy





CUMBERLAND  
CITY COUNCIL

## Goods on Display Policy

### AUTHORISATION & VERSION CONTROL

<b>Policy Number</b>	POL-***
<b>Policy Owner</b>	Director Finance & Governance
<b>Date Adopted</b>	** ***** **
<b>Version No</b>	1
<b>Document ID Number:</b>	*****
<b>Review Date</b>	***** **



## PURPOSE

This Policy outlines Council's better practice design guidelines and planning controls to assist in establishing the display of goods on footpaths. Whilst Council actively supports local businesses, it is imperative that adequate controls are maintained at all times for the safety of the community. This implementation of this Policy is detailed in the *Goods on Display Guidelines*.

## SCOPE

This policy applies to all land covered by the *Roads Act 1993* and/or is owned or controlled by Council, where a proponent wishes to place goods on or over Council land. Council will apply this policy to ensure the appropriate establishment of businesses displaying goods in Cumberland's commercial centres, which comply with the relevant legislation, and make a positive contribution to these centres and promote trade.

## PRINCIPLES

Goods displayed on Council land will:

- encourage and support local business displaying goods on Council footpaths that does not unduly obstruct pedestrian safety, by providing an active and attractive street frontage that does not compromise safety;
- encourage the fair and equitable use of Council footpaths by all members of the community;
- ensure that adjoining premises are not unduly affected; and
- ensure that all display areas are kept clean and regularly maintained.

## POLICY STATEMENT

The following must be adhered to in relation to the display of goods on all Council owned footpaths:

- Only the section of the footpath directly in front of the approved business premises may be used for the display of goods, and goods displayed must relate specifically to the approved business;
- The display area must extend no more than 1.0 metre out from the shop front, measured at 90 degrees to the boundary line, and must not occupy more than 50% of the length of the shop frontage;
- All display stands must maintain a minimum clearance of 0.5 metre from the entry to the shop and from the adjoining property boundary; and 2.0 metres from building corners at vehicular crossings, arcade entrances, street and lanes;
- Access to public utilities must be maintained at all times – a minimum 1.0m clearance applies to any asset permanently fixed to the footpath such as rubbish bin, parking signs, telecommunication infrastructure and to any public seat;

- The displayed goods must not exceed a maximum height of 1.5 metres at the back of the display area, and a minimum display height of 750mm at the front of the display area (inclusive of any display stand);
- Goods must be displayed on stands that are purpose built and capable of holding the items on display and are safely secured to ensure stability in wind gusts - all display stands must be fully enclosed down to ground level on all sides to assist pedestrians who may be visually impaired and rely on the use of a walking stick;
- Cardboard, foam or polystyrene boxes, pallets, milk crates, and other such articles are not deemed suitable for display purposes;
- Sufficient space must be provided in front of the subject premises for the temporary parking of disabled scooters;
- Driver mounted forklifts must not be used to place shop displays or goods on the footpath;
- Premises with dual street frontages are only permitted to display goods on one street frontage only;
- All goods or articles must only be displayed during daylight hours;
- Empty boxes or disused packaging must not remain on the footpath area or be rested against Council's litterbins, trees, or any other street furniture;
- Prior to goods being displayed, an application form must be submitted with the relevant fees paid and in accordance with the adopted Fees & Charges, and insurance certificate of currency provided.
- Once approved, a copy of an approved licence agreement must be prominently displayed in the front window of the associated shop, together with an A4 copy of the approved layout showing the location and number of display stands.

Failure to adhere with any of the abovementioned controls may result in the licence permit being revoked.

## RELATED LEGISLATION

- Local Government Act 1993 (NSW)
- Roads Act 1993 (NSW)
- Environmental Planning & Assessment Act 1979 (NSW)

## RELATED DOCUMENTS AND COUNCIL POLICY

- Goods on Display Guidelines



DOCUMENTS  
ASSOCIATED WITH  
REPORT C09/20-534

Attachment 2  
Draft Goods on Display  
Guidelines



CUMBERLAND  
CITY COUNCIL

## Goods on Display Guidelines

### AUTHORISATION & VERSION CONTROL

<b>Guideline Number</b>	GDL-***
<b>Guideline Owner</b>	Director Finance & Governance
<b>Date Approved</b>	***
<b>Version No</b>	1
<b>Document ID</b>	ECM Number
<b>Review Date</b>	***



## PURPOSE

These Guidelines outline better practice design and planning controls to assist in establishing the display of goods on footpaths. Whilst Council actively supports local businesses, it is imperative that adequate controls are maintained at all times for the safety of the community. These guidelines detail the implementation of the *Goods on Display Policy*.

## SCOPE

This policy applies to all land covered by the *Roads Act 1993* and/or is owned or controlled by Council, where a proponent wishes to place goods on or over Council land. Council will apply this policy to ensure the appropriate establishment of businesses displaying goods in Cumberland's commercial centres, which comply with the relevant legislation, and make a positive contribution to these centres and promote trade.

## PRINCIPLES

Goods displayed on Council land will:

- encourage and support local business displaying goods on Council footpaths that does not unduly obstruct pedestrian safety, by providing an active and attractive street frontage that does not compromise safety;
- encourage the fair and equitable use of Council footpaths by all members of the community;
- ensure that adjoining premises are not unduly affected; and
- ensure that all display areas are kept clean and regularly maintained.

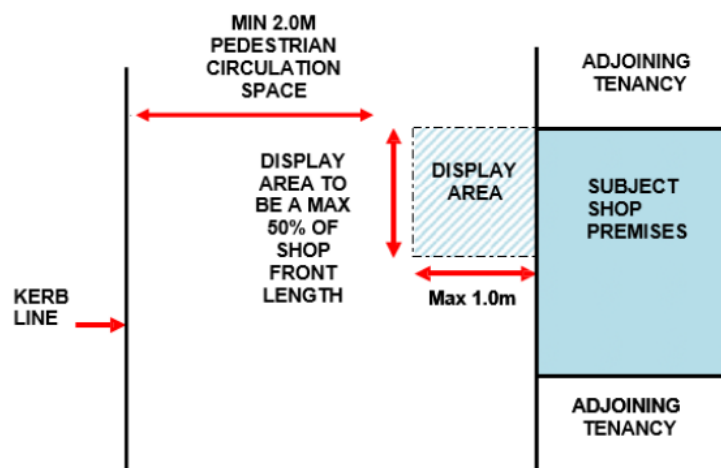
Whilst Council actively encourages businesses to display goods on the footpath, there may be some areas where this activity is not appropriate due to insufficient footpath width. In determining the appropriateness of whether a location is suitable to allow goods to be displayed on the footpath, Council will give consideration to the following criteria:

- the need to retain a continuous accessible pedestrian circulation space along the footpath;
- the volume of pedestrian traffic generated in the area;
- the location of other goods being displayed, including the location of existing shop fronts and awnings;
- the location of streetscape elements including poles, signs, waste bins, fire hydrants, inspection chambers, telephone / electricity underground cables, water services pipes and the like; and
- the location of bus stops, taxi stands, and parking for the disabled.

### Minimum Footpath Width

- A clear & unobstructed pedestrian corridor of 2.0 metres minimum must be maintained to allow for continuous accessible paths of travel at all times.
- The display area must not extend more than 1.0 metre away from the shop front boundary of the respective business subject to the approval. Goods are not permitted to be displayed away from the shop front adjacent to the kerb/roadway at any time.
- The surface area of the footpath must be suitably constructed and sufficiently level to support display stands.

Refer to Figure 1 below for more details.



**Figure 1: Indicative Site Plan Requirements**

### Defining the Area Used to Display Goods

Subject to an approved application, the boundaries of the approved licensed area must be appropriately marked out on the footpath.

This may be achieved by Council installing (at the applicant's expense) metal studs/discs flush with the paved surface. Alternatively, Council may consider other means of designating the licensed area (e.g. painting lines). Full details of the proposed method of marking the footpath must be provided with the application form.

Regardless of what method is agreed to, the marking must remain in place throughout the duration of the licence.

### Permitted Goods

The footpath area can only be used to display the following goods and activities.

- Cut flowers and pot plants;
- Newspapers, pamphlets and brochures provided they are secured in a windproof device; and
- Fruit and vegetables stalls.

All sale transactions/purchases must be completed inside the business premises and not on the footpath.

### Fruit and Vegetables Stalls

The following controls relate specially to the display of fruit and vegetables:

- All fruit and vegetable displays must comply with the Australian and New Zealand Food Safety Standard and AS. 4674 – design fit out and construction of food premises;
- All premises wishing to display fruit and vegetables must be registered as part of Council's food shop inspection program and comply at all times with the relevant food related legislation and any directions of Council Authorised Officers;
- No washing or spraying of the fruit and vegetables shall occur on, or adjacent to the footpath;
- It is the proprietors' responsibility to ensure that any waste from the fruit and vegetables is removed from the footpath immediately and stored in receptacles within the premises.

*Goods on Display Guidelines*

*Adopted: (Date)*

*Page 2*

- Fruit and vegetables displays must not be located where they are exposed to direct sunshine and/or rain; and
- Fruit and vegetables displays must be a minimum of 750mm off the ground.

### **Prohibited Goods**

All goods and articles, except those expressly permitted in Section 3 of this guideline are prohibited from being displayed on the footpath. All perishable (i.e. potentially hazardous) foods such as meat, fish, poultry, dairy products, cooked rice, eggs and shellfish are not permitted to be displayed on the footpath at any time.

### **Requirements**

The following requirements must be adhered to in relation to the display of goods on all Council owned footpaths:

- Only the section of the footpath directly in front of the approved business premises may be used for the display of goods, and goods displayed must relate specially to the approved business;
- The display area must not occupy more than 50% of the length of the shop frontage;
- The display area must extend no more than 1.0 metre out from the shop front, measured at 90 degrees to the boundary line;
- All display stands must maintain a minimum clearance of 0.5 metre from the entry to the shop and from the adjoining property boundary; and 2.0 metres from building corners at vehicular crossings, arcade entrances, street and lanes;
- Access to public utilities must be maintained at all times – namely a minimum 1.0m clearance to any asset permanently fixed to the footpath such as rubbish bin, parking signs, telecommunication infrastructure and to any public seat;
- The displayed goods must not exceed a maximum height of 1.5 metres at the back of the display area, and a minimum display height of 750mm at the front of the display area (inclusive of any display stand);
- Goods must be displayed on stands that are purpose built and capable of holding the items on display and are safely secured to ensure stability in wind gusts - all display stands must be fully enclosed down to ground level on all sides to assist pedestrians who may be visually impaired and rely on the use of a walking stick;
- Cardboard, foam or polystyrene boxes, pallets, milk crates, and other such articles are not deemed suitable for display purposes;
- Sufficient space must be provided in front of the subject premises for the temporary parking of disabled scooters;
- Driver mounted forklifts must not be used to place shop displays or goods on the footpath;
- Premises with dual street frontages are only permitted to display goods on one street frontage only;
- All goods or articles must only be displayed during daylight hours;
- Empty boxes or disused packaging must not remain on the footpath area or be rested against Council's litterbins, trees, or any other street furniture; and
- Street and shop numbers must be visible at all times.

Failure to adhere with any of the abovementioned controls may result in the licence permit being revoked.

### **Licence Agreement and Rental Cost**

Once Council approves an application, written notification will be issued to the approval holder stipulating the conditions of approval. Upon receipt of the approval, the approval holder is then required to produce a copy of their public liability insurance and payment of appropriate fees and bond.

The licence agreement, which must be signed by the approval holder, will detail the provision for an annual rental fee. Prior to goods being displayed, a laminated copy of the licence agreement must be prominently displayed in the front window of the associated shop, together with an A4 copy of the approved layout showing the location and number of display stands.

### **Public Liability Insurance**

The business operator is required to maintain a valid public liability insurance policy for a minimum of twenty million dollars (\$20,000,000).

The policy must:

- Indemnify Cumberland City Council against any public liability claims within the area between the front property boundary of the shop and the kerb line for the full frontage of the shop; and
- Be in force at all times that goods are displayed. Upon annual renewal, the business operator must send a copy of the renewal to Council. Proof of currency must be kept on the premises and produced on demand by any authorised Council officer.

### **Compliance with this Guideline**

Council's aim is to manage all footway areas to ensure the objectives of the guideline are met. Council will take action for any breaches of this guideline or conditions set by the approval or licence. In the first instance, business proprietors will be given the opportunity to rectify any areas of non-compliance or breaches of conditions. If no action is taken to rectify the situation of non-compliance or breach of conditions, Council may issue a Penalty Infringement Notice, revoke its consent or commence legal action in a court of competent jurisdiction.

### **Use of Footpath by Council**

The control and future usage of the footpath will remain at the discretion of Council at all times. The business proprietor must follow all directions of Council Officers to allow for any maintenance and cleaning of the footpath area. No compensation will be given for loss of opportunity to display goods on the footpath due to upgrade works, cleaning and/or maintenance activities under the control of Council.

If at any time the Council undertakes upgrade works to the footpath that effectively reduces the pedestrian width below the minimum required, the display of goods on the footpath will no longer be permissible. Council will notify the proprietor in this instance that the consent has been revoked.

### **Permit Renewal and Cancellation**

A Goods Displayed on Footpath licence is valid for 2 years upon approval and may be cancelled or amended if:

- The operator fails to comply with the permit conditions; or
- There are changed conditions affecting the footpath area in its particular location, e.g. an increased risk to health or safety.

Other valid reasons that may necessitate a licence being cancelled include matters such as streetscape upgrades and/or refurbishment. Council will only renew a licence after a review of health and safety conditions are undertaken to ensure compliance with policy guidelines and a history check of past operations.



### Approval Process

Council approval is required prior to displaying goods on the footpath pursuant to:

- Local Government Act 1993;
- Environmental Planning and Assessment Act 1979; and
- Roads Act 1993.

Any business that applies for approval to display goods on the footpath must have current development consent to occupy the associated shop. If approval has not been granted, the application will not be considered.

All applications must be made on Council's '*Display of Goods on Council Footpath Application Form*'.

### Council Owned Land

The written authority of the General Manager or delegated officer is required to be obtained to formally lodge an application to occupy Council owned footpaths.

Once the signature has been obtained, the applicant will be contacted to pay the appropriate fees upon which the application can be lodged and formal assessment will commence. The signature of the General Manager or delegate does not infer that approval will be granted.

### Privately Owned Land

If the land upon which the proposed activity is privately owned, the written consent of the owner will be required. The application form contains provision for the owner's details and signature. The application form and supporting detail must be completed in full and submitted to Council incomplete applications will be returned.

Activities that involve both privately owned and Council land require the consent of both the private land owner and Council.

### Application Lodgement

This application must be accompanied by the prescribed fee and the following information:

1. Written authority of the General Manager and/or land owner to lodge the application;
2. Details of the items to be displayed on the footpath;
3. Copy of current public liability risk insurance policy;
4. Copies of a site plan drawn to a minimum scale of 1:100, detailing:
  - a. Street name, shop numbers and north point;
  - b. Dimensions and boundaries of the proposed footpath;
  - c. Location and dimensions of the proposed display area, width of the shopfront of the premises and adjacent shops and the kerb line of the street;
  - d. Current use of the premises and adjacent shops;
  - e. Existing and/or proposed car parking, manoeuvring aisles, driveways and truck turning areas in front of the display area; and
  - f. Location of any public utilities structures such as power poles, street poles, bus stops, trees, planter boxes, street furniture, signposts or other such items, which are adjacent to the site;
  - g. Elevation plans/details for any shelving and/or display stand(s) to be used.

The application will be notified to neighbouring property owners and business proprietors for 14 days.  
The submission of an application does not imply automatic approval.

**Fees**

All fees and the appropriate bond will be charged in accordance with Council's adopted fees and charges. Where any charge, fee, supply of products or services under this policy is subject to a goods and services tax (GST), an amount equal to the GST paid or payable in respect of the charge, fee, supply of products or services, shall be included in the amount of consideration paid or payable under this policy.

**RELATED DOCUMENTS AND COUNCIL POLICY**

- Good on Display Policy

**RELATED LEGISLATION**

- Local Government Act 1993(NSW)
- Roads Act 1993 (NSW)
- Environmental Planning & Assessment Act 1979 (NSW)





Item No: C09/20-535

**REPORT ON OUTSTANDING COUNCIL RESOLUTIONS**

Responsible Division: Finance & Governance  
Officer: Director Finance & Governance  
File Number: SC492  
Community Strategic Plan Goal: *Transparent and accountable leadership*

**SUMMARY**

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This report presents to Council the current list of outstanding Council resolutions.

**RECOMMENDATION**

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**That Council receive the report.**

**REPORT**

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This report provides Council an update on the current outstanding Council resolutions. A total of 40 resolutions are currently in progress.

The list of outstanding Council resolutions and a status update is provided as Attachment 1 to this report.

Year	Resolutions Passed	Resolutions Enacted/Completed	Resolutions in Progress
2017	150	149	1
2018	258	258	0
2019	328	317	11
2020	179	151	28

**COMMUNITY ENGAGEMENT**

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There are no consultation processes for Council associated with this report.

**POLICY IMPLICATIONS**

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There are no policy implications for Council associated with this report.

## **RISK IMPLICATIONS**

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This report provides Council with added transparency in relation to the progress of outstanding Council resolutions.

## **FINANCIAL IMPLICATIONS**

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There are no financial implications for Council associated with this report.

## **CONCLUSION**

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The update on outstanding Council resolutions is provided for the information of Council.

## **ATTACHMENTS**

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1. Outstanding Council Resolutions [↓](#)

**DOCUMENTS  
ASSOCIATED WITH  
REPORT C09/20-535**

**Attachment 1  
Outstanding Council Resolutions**



**Outstanding Council Resolutions**  
*As at 26/08/2020*

Date of Meeting	Minute No / Subject	Council Decision	Responsible Directorate	Status	Estimated Completion Date
05/07/2017	Min. 165 - Item 108/17 - Wentworthville Town Centre Planning Proposal - Reclassification of Public Land	1. Defer the reclassification of The Kingsway Carpark site and the Lane Street Community Facilities site to 'operational' pending the preparation of a Property and Facilities Strategy for Wentworthville Town Centre. 2. Proceed with the Wentworthville Town Centre Planning Proposal as per Council's resolution of 3 August 2016, excluding any reclassification of land. 3. That the Property and Facilities Strategy be reported to Council for adoption prior to preparation of a Planning Proposal to reclassify the subject sites.	Finance and Governance	TfNSW is currently undertaking due diligence on the Kingsway Carpark site for a multi-level carpark as an alternate location for a commuter carpark at the Pendle Hill station site. The reclassification of the Kingsway Carpark is pending on the proposal from TfNSW to construct a commuter carpark on this site. The Draft Property Strategy has been completed.	31/12/2020
03/04/2019	Min. 478 - Item C04/19-35 - Proposed Closure and Sale of Part of Firms Lane, Merrylands	That Council delegate authority to the General Manager to consider any submissions made to Council with respect to the closing of a portion of Firms Lane, Merrylands, and to report to Council about this matter.	Finance and Governance	Waiting for the Traffic Management Plan to be updated and reported back to the Traffic Committee before a report can be prepared for consideration by Council to close part of Firms Lane. Council recently sent additional information to the RMS in relation to the Traffic Management Plan. Council is awaiting feedback on this.	16/12/2020
19/06/2019	Min. 557 - Item C06/19-109 - Parramatta Road Urban Amenity Improvement Program- Land Acquisition for Auburn Park Expansion	That Council: 1. Endorse the acquisitions of 45, 47, 49 and 55 Karabah Road, Auburn by compulsory process for the purposes of expanding Auburn Park. 2. Approve and authorise the necessary application to be made to the Minister for Local Government and the Governor. 3. Delegate authority to the General Manager to execute all documents associated with the acquisition of these properties. 4. Give public notice of its intention to classify all seven properties (43, 45, 47, 49, 51, 53 and 55 Karabah Road, Auburn) as Community Land in accordance with the provisions of section 34 of the Local Government Act 1993 and make the classification if no adverse submissions are received.	Finance and Governance	Project variation approved by NSW Dept. of Planning, Industry and Environment on 17 August 2020 to enable Council to acquire the final property. Negotiations are currently being undertaken for the final property for Council to acquire, 45 Karabah Rd. Council is attempting to come to an agreement with the vendor rather than forcibly acquire the property.	18/11/2020
17/07/2019	Min. 606 - Item C07/19-146 - Auburn South Community and Recreation Centre -Community Engagement Outcomes	That Council: 1. Receive and note the outcomes of the community engagement programme undertaken to inform the development of the Auburn South Community and Recreation Centre detailed in Attachment 1.2. Proceed to the detailed design phase for the new community facility in 2019/20. 3. Exhibit the detailed design for public comment.	Community and Organisational Development	Project likely to be deferred due to review of capital works program as a result of needing to free funds in responding to COVID-19 crisis, subject to Council resolution to amend the capital works program.	31/12/2020
04/09/2019	Min. 674 - Item C09/19-194 - Planning Proposal for 2-22 William Street, Granville	That Council: 1. Prepare a planning proposal for 2-22 William Street, Granville, with the following land use and built form controls: a. Floor Space Ratio of 1.7:1 b. Height of Building control of 16 metres c. Removal of local heritage item I205 known as 10 William Street (Lot 27 DP 2371) from Schedule 5 of the Parramatta Local Environmental Plan 2011. 2. Endorse that the planning proposal for 2-22 William Street, Granville, be forwarded to the Department of Planning, Industry and Environment for a Gateway Determination. 3. Prepare a Development Control Plan to provide further planning controls for the site, should a Gateway Determination be received. 4. Prepare a Voluntary Planning Agreement to derive public benefit, should a Gateway Determination be received.	Environment and Planning	Development Control Plan and Voluntary Planning Agreement are being prepared prior to public exhibition.	30/06/2021
18/09/2019	Min. 691 - Item C09/19-224 - Notice of Motion - Lidcombe Town Centre Parking Supply	That Council: 1. Undertake a parking survey in the streets within the Lidcombe Town Centre and surrounding streets identifying the saturation rate, usage and the number of available on street car parking spaces; 2. At the conclusion of the parking survey, consult and engage with the community on the results and options to improve parking within the Lidcombe Town Centre and surrounds; and 3. Receive a report outlining the results of both the parking survey and community consultation outcomes at the conclusion of the above processes.	Works and Infrastructure	Report to be prepared for November 2020	18/11/2020
06/11/2019	Min. 769 - Item C11/19-274 - Notice of Motion - Upgrade of the Mona Street, Clyde Street and Redfern Street Intersections	That Council: 1. Provide a report into options for the upgrade of the Mona Street, Clyde Street and Redfern Street Intersections in an attempt to alleviate the congestion and provide better traffic flow; and 2. Take into consideration: a. Possible changes to signage and parking restrictions in Mona Street (both north and south sides if required) during morning and afternoon peak periods; b. Widening of Clyde Street between Mona and Redfern Streets; c. Dedicated left turn lane from Clyde Street into Redfern Street; d. Dedicated left and right turn lanes from Clyde Street into Mona Street; e. Possible dual lane right turn from Mona Street into Clyde Street; and f. Possible changes to parking restrictions and signage in Redfern and Hudson Streets.	Works and Infrastructure	Report to be prepared for November 2020 Council meeting.	18/11/2020
20/11/2019	Min. 786 - Matter of Urgency - Natural Open Space in the Cumberland LGA	That: 1. Following the recent catastrophic fire conditions in Sydney, Council prepare a report outlining natural open space including but not limited to parks, gardens and bushland within the Cumberland LGA which could be affected by the same. 2. Council make representation to the relevant Ministers and State Members in relation to this matter.	Works and Infrastructure	Report to be prepared for Council Meeting in September 2020.	17/09/2020



Date of Meeting	Minute No / Subject	Council Decision	Responsible Directorate	Status	Estimated Completion Date
04/12/2019	Min. 825 - Item C12/19-314 - WSROC Power Purchase Agreement	That Council: 1. Due to extenuating circumstances, approve an exemption to Tender under s.55(3)(g) of the Local Government Act 1993, as due to the unavailability of competitive or reliable tenders, a satisfactory result would not be achieved by inviting tenders, noting that Western Sydney Regional Organisation of Councils (WSROC) have already undertaken an extensive EOI and evaluation process; and 2. Enter into the 10-year Power Purchase Agreement on offer from renewable energy developer Genex Power (ABN:18 152 098 854) through WSROC, subject to satisfactory legal review; and 3. Delegate authority to the General Manager to negotiate and execute a Power Purchase Agreement through WSROC Ltd. and enter a Council Buyers Membership Agreement for the Power Purchase Agreement for up to 19,000MW	Environment and Planning	Contract negotiation finalisation is continuing	31/12/2020
18/12/2019	Min. 850 - Item C12/19-343 - Notice of Motion - Planning Proposal for 55-57 Station Street and 6 Pritchard Street East, Wentworthville	That Council: 1. Prepare a planning proposal for 55-57 Station Street and 6 Pritchard Street East, Wentworthville, with the following built form and additional permitted use controls: a) Floor Space Ratio control of 3:1 on the entire site; b) Height of building control of 41 metres on 55-57 Station Street and 17 and 23 metres on 6 Pritchard Street; and c) Introduce a 100m <sup>2</sup> gymnasium as an additional permitted use for the site. 2. Endorse that the planning proposal for 55-57 Station Street and 6 Pritchard Street East, Wentworthville, be forwarded to the Department of Planning, Industry and Environment for a Gateway Determination. 3. Prepare a Development Control Plan to provide further planning controls for the site, should a Gateway Determination be received. 4. Prepare a Voluntary Planning Agreement to derive public benefit, should a Gateway Determination be received.	Environment and Planning	Received Gateway Determination. Minor amendments to be made to Planning Proposal prior to public exhibition. Draft Development Control Plan & Voluntary Planning Agreement to be finalised prior to public exhibition.	30/06/2021
18/12/2019	Min. 876 - Item C12/19-341 - Notice of Motion - Wentworthville Carpark(s)	That Council Officers consider and provide a report on planning for a centralised major off-street public carpark(s) in the Wentworthville Town Centre to accommodate all-day commuter parking and timed retail/commercial parking.	Environment and Planning	Council is considering a range of options regarding planning for a centralised major off-street public carpark(s) in the Wentworthville Town Centre. A report will be provided in July 2020.	15/07/2020
18/12/2019	Min. 877 - Item C12/19-342 - Notice of Motion - Wentworthville Traffic	That Council Officers consider and provide a report detailing indicative traffic management options that could be adopted to discourage east-west through traffic on streets south of Pritchard St East, Wentworthville (namely McKern, Perry and Bennett Streets) once the full by-pass option is implemented.	Works and Infrastructure	Council Officers are preparing a report to be presented to Council in October 2020.	21/10/2020
05/02/2020	Min. 900 - Item C02/20-359 - Proposed Sale of Fraser Street Reserve	That Council: 1. Accept the offers from the 7 adjoining residents to sell the land known as Fraser Street Reserve (LOT 18 DP 224829 and LOT 42 DP 238330) for a total sale price of \$507,000, sold on a per m <sup>2</sup> pro rata basis, with the purchasers to pay their own and Council's legal costs in addition. 2. Delegate authority to the General Manager to finalise the sale for each lot in accordance with the valuation and offer received. 3. Agree that if all 7 adjoining residents do not participate in the sale process, then this matter be considered finalised and not be pursued further, therefore rescinding the previous resolution of Council.	Finance and Governance	Contract is being executed with the purchasers. Remediation works to commence once deposits are received.	03/02/2021
04/03/2020	Min. 942 - C03/20-383 Proposed Land Dealing at Victor Brazier Park	That Council: 1. Prepare a planning proposal to reclassify a small portion of land through the Local Environmental Plan process and submit the planning proposal to the Department of Planning, Industry and Environment for a Gateway Determination. 2. A further report to be returned to Council regarding the preparation of the planning proposal.	Environment and Planning	Council is currently developing a program for the implementation of this resolution, this includes reviewing options to determine the most appropriate method of developing a Planning Proposal for this site.	30/06/2021
01/04/2020	Min. 650 C04/20-410 Notice of Motion - Food Delivery Services in the Cumberland LGA	2. Also write to all the cafes/restaurants/food outlets in our LGA providing these rules and request their assistance with these delivery services so that we can keep pedestrians and shoppers safe as they walk along the footpaths. 3. Develop a draft policy to be provided for council endorsement regarding this type of food delivery service. 4. Write to the Minister of Transport in relation to this matter.	Works and Infrastructure	Council has written to food delivery services and food premises seeking assistance with the issue. Correspondence to the Minister of Transport has been sent requesting feedback to be included in the draft Policy being prepared for September 2020 Council meeting.	16/09/2020
15/04/2020	Min. 666 C04/20-417 Planning Proposal - 45 Barcom Street, Merrylands West	That Council: 1. Endorse an amended planning proposal for the site that seeks to amend the Holroyd Local Environmental Plan 2013, to: a. Rezone the site from R2 Low Density Residential to R4 High Density Residential; b. Amend the height of building (HOB) control for the site from 9m to 15m; c. Amend the floor space ratio (FSR) control for the site from 0.5:1 to 0.85:1; and d. Add a clause to Part 6 Additional Local Provisions of Holroyd Local Environmental Plan 2013 limiting non-residential floor space to 1,480m <sup>2</sup> . 2. Endorse that the planning proposal for 45 Barcom Street, Merrylands, be forwarded to the Department of Planning, Industry and Environment for a Gateway Determination.	Environment and Planning	Gateway Determination issued. Development Control Plan and Voluntary Planning Agreement are being prepared prior to public exhibition.	30/06/2021

Date of Meeting	Minute No / Subject	Council Decision	Responsible Directorate	Status	Estimated Completion Date
		3. Prepare a Voluntary Planning Agreement to derive public benefit, should a Gateway Determination be received. 4. Prepare a site specific Development Control Plan to guide redevelopment of the site, should a Gateway Determination be received.			
15/04/2020	Min.669 C04/20-420 Notice of Motion - Ensuring the Future Wellbeing of the Cumberland Community	That Council requests the General Manager to develop a coordinated report from across the organisation which examines the capacity of this organisation to respond, improve and progress the well-being of our Community.	Environment and Planning	Work being progressed to prepare a coordinated report	30/11/2020
20/05/2020	Min.684 C05/20-428 Cumberland City Council Community Grants Program Round Two 2019/2020	That the matter be deferred until post Covid-19.	Community and Organisational Development	Deferred until the COVID-19 pandemic is over. A date is yet to be determined.	31/12/2020
20/05/2020	Min.690 C05/20-439 Planning Proposal and Voluntary Planning Agreement for Building 3, 20-22 Dressler Court, Merrylands (Formerly Known As 1-11 Neil Street, Merrylands)	That Council: 1. Adopt the recommended planning controls for Building 3, 20-22 Dressler Court, Merrylands (formerly known as 1-11 Neil Street, Merrylands), and as previously resolved by Council, being: a) a maximum building height of 50m apply to the south-eastern portion of the site; and b) a maximum floor space ratio of 3.66:1 apply to the eastern portion of the site. 2. Endorse and delegate authority to the Mayor and the General Manager to execute the Voluntary Planning Agreement, on behalf of Council, for Building 3, 20-22 Dressler Court, Merrylands, as provided in Attachment 2. 3. Finalise the planning proposal, as delegated by the Minister, following execution of the Voluntary Planning Agreement and registration on title. 4. Note that this LEP amendment will be published in the Government Gazette upon finalisation.	Environment and Planning	Finalisation underway.	31/12/2020
20/05/2020	Min.692 C05/20-441 Planning Proposal - 2-36 Church Street, Lidcombe	That Council: 1. Endorse an amended planning proposal for the site that seeks to amend the Auburn Local Environmental Plan 2010, to: a. Amend the Height of Building (MOB) control for the site from: I. 14.9 metres to 22 metres II. 16.9 metres to 32 metres III. 22.9 metres to 40 metres IV. 27 metres to 40 metres b. Amend the Floor Space Ratio control for the site from 1:29:1, 1:49:1, 2:49:1 and 2:6:1 to 3:2:1. 2. Endorse that the planning proposal for 2-36 Church Street, Lidcombe, be forwarded to the Department of Planning, Industry and Environment for a Gateway Determination. 3. Prepare a Voluntary Planning Agreement to derive public benefit, should a Gateway Determination be received.	Environment and Planning	Gateway Determination issued. Voluntary Planning Agreement is being prepared prior to public exhibition.	30/06/2021
20/05/2020	Min.702 C05/20-452 Notice of Motion - Revenue Generation Opportunities	That Council be provided with a report which identifies additional revenue generation opportunities from existing Council owned and/or managed land holdings and property leasing portfolio.	Finance and Governance	Council will prepare a report.	30/09/2020
20/05/2020	Min.703 C05/20-453 Notice of Motion - Council's Land in Lane Street and Veron Street, Wentworthville	That Council: 1. Undertake an Expression of Interest process for the future use of Council's Land in Lane Street and Veron Street Wentworthville which encompass the Wentworthville Library, Community Centre and the car park east of Finlaysons Creek. 2. Be provided with a report of the outcomes to Council's meeting within 6 months.	Finance and Governance	Expression of Interest closed and evaluated. Report to Council being prepared.	16/09/2020
03/06/2020	Min.717 MM06/20-32 Mayoral Minute - Progressing Prospect Hill Project	That Council: 1. Note the ongoing dialogue and challenges with Heritage NSW on the delivery of the Prospect Hill project. 2. Agree in principle to commit the net funds from the sale of 615A Great Western Highway, Penrith towards the purchase of the land identified in the Prospect Hill Masterplan on the western side of Prospect Hill that is under private ownership. 3. Ensure that the areas to be purchased are identified on the acquisitions list. 4. Write to the Minister Energy & Environment, notifying him of this Mayoral Minute and requesting his full support to progress this matter.	Finance and Governance	Letter sent to Minister for Energy and Environment, the Hon. Matt Kean MP, on 12 June 2020. Council is awaiting the finalisation of the sale of 615A Great Western Highway, Greystones.	16/12/2020



Date of Meeting	Minute No / Subject	Council Decision	Responsible Directorate	Status	Estimated Completion Date
17/06/2020	Min. 733 C06/20-474 Draft Cumberland Affordable Housing Strategy	That Council place the Draft Cumberland Affordable Housing Strategy on public exhibition for a period of 28 days, with a report to be provided back to Council following the conclusion of the exhibition.	Environment and Planning	Draft Cumberland Affordable Housing Strategy is currently on exhibition.	31/12/2020
17/06/2020	Min. 734 C06/20-475 Planning Proposal - 106 - 128 Woodpark Road, Smithfield	That Council: 1. Endorse the planning proposal for 106-128 Woodpark Road, Smithfield, to amend the Holroyd Local Environmental Plan 2013 as follows: a. Increase the Height of Building control for the southern portion of the site from 20 metres to 29 metres. b. Amend Schedule 1 to include 'shop', 'business premises' and 'office premises' as additional permitted uses. c. Introduce a cap on the amount of floor space of the additional permitted uses (7,000m <sup>2</sup> for office premises, and 10,500m <sup>2</sup> for shop and business premises). 2. Endorse that the planning proposal be forwarded to the Department of Planning, Industry and Environment for a Gateway Determination. 3. Prepare a Voluntary Planning Agreement to derive public benefit, should a Gateway Determination be received.	Environment and Planning	Awaiting Gateway Determination	31/12/2021
17/06/2020	Min. 735 C06/20-476 Request for Gateway Alteration for the Planning Proposal Request for 2 Bachell Avenue, Lidcombe	That Council: 1. Endorse an amended planning proposal for 2 Bachell Avenue, Lidcombe, that seeks to amend Auburn Local Environmental Plan 2010, to: a) Increase the floor space ratio (FSR) control for the site from 2.5:1 to 3:1; b) Apply a height of building (HOB) control for the site of 18m and 32m height of building control; c) Amend Schedule 1 to add Office and Business Premise as additional permitted uses to the site; and d) Add a clause to Part 6 that applies a local provision regarding a floor space cap of 7000m <sup>2</sup> to the additional permitted uses. 2. Endorse that the amended planning proposal be forwarded to the Department of Planning, Industry and Environment seeking an alteration to the Gateway Determination. 3. Note that the following controls are to be retained as included in the Gateway Determination for the proposal: a) Introduction of B5 Business Development Zone for the site. b) Removal of Foreshore Building Line that applies to the site.	Environment and Planning	Awaiting Gateway Determination	30/06/2021
01/07/2020	Min. 745 C07/20-493 Tender for the Receipt & Processing of Recyclable Material - T-2020-006	That Council: 1. Decline all tenders in accordance with Clause 178(1)(b) of the Local Government (General) Regulation 2005. 2. Enter into negotiations with Visy Recycling Pty Ltd and Polytrade Recycling Pty Ltd for the receipt and processing of recyclable material in accordance with Clause 178 of the Local Government (General) Regulation 2005, as the number of capable and available tenderers are limited, and calling fresh tenders would not yield an optimal financial outcome for this contract. 3. Receive a report on the outcome of negotiations for determination.	Works and Infrastructure	Currently undertaking negotiations as per Council resolution. Report to be prepared for Council meeting in September 2020.	02/09/2020
01/07/2020	Min. 748 C07/20-487 Notice of Motion - Skate Park in Greystanes	That Council advise on previous reports with respect to a skate park in the Greystanes area as this has been ongoing for some years, identifying appropriate locations for the same and seek State and Federal funding to build the skate park.	Works and Infrastructure	Report to be presented to Council in September 2020.	16/09/2020
01/07/2020	Min. 749 C07/20-488 Notice of Motion - Outdoor Gyms	That Council receive a report to introduce more outdoor gyms/fitness stations in the Cumberland LGA.	Works and Infrastructure	Report to be presented to Council in October 2020.	07/10/2020
01/07/2020	Min. 750 C07/20-489 Notice of Motion - Signage	That Council receive a report on the cost of updating all the signs on the Lower Prospect Canal cycle track to reflect Cumberland City Council.	Works and Infrastructure	Report to be presented to Council in October 2020.	07/10/2020
01/07/2020	Min. 751 C07/20-490 Notice of Motion - Animal Defecation	That council receive a report on implementing and installing signs in the Cumberland LGA around recognised walking, biking and other routes regularly used by constituents as a means of exercise to remind pet owners of their responsibilities with respect to cleaning up animal defecation, as there has been a marked increase of this recently.	Works and Infrastructure	Report to be presented to Council in October 2020.	07/10/2020
01/07/2020	Min. 752 C07/20-491 Notice of Motion - Community Service Centre	That Council be provided with a report regarding the feasibility of establishing a community service centre within an existing facility or otherwise, located in Wentworthville and any other local Centre that Council may deem appropriate.	Community and Organisational Development	Report to Council in October 2020.	07/10/2020
15/07/2020	Min. 764 C07/20-499 Response to Notice of Motion Council Overheads	That Council: 1. Receive and note this report. 2. Be provided with a further report on the following: (a) The reason the sum of \$40,805,447 is presented as the total cost pool; (b) The items included for property development and buildings at \$9,769,441; and (c) The cost driver data for the table on page 49.	Finance and Governance	This resolution will be addressed after we clear some other more urgent matters	31/12/2020

Date of Meeting	Minute No / Subject	Council Decision	Responsible Directorate	Status	Estimated Completion Date
05/08/2020	Min.772 Matter of Urgency – COVID-19 Pandemic	That: 1. For the duration of the ongoing COVID-19 pandemic, all groups and users of Council sporting fields and facilities adhere to public health orders in relation to the use of these facilities and that Council provide the necessary documentation and requirements to groups and users at the time of hire to facilitate this process. 2. In managing the risks within our community the provision of a COVID safety plan be endorsed as a condition of hire of Council's facilities and that resources be allocated from within Council to undertake checks of our facilities to ensure groups are complying with the safety plans they have developed. 3. Hirers must be required to maintain a record of attendance sheet so that spectator and participant details can be recorded (for purposes of contact tracing) and that all hirers be provided with the most current health advice about restrictions and practical containment measures such as hygiene, social distance and the prevention of attendance by anyone with symptoms or who is being tested due to contact. 4. Groups and hirers should also be required to appoint a registered COVID Safety Marshall to ensure these measures are implemented and adhered to. 5. Council officers should be responsible for the implementation and monitoring of this process and a report should be provided back to Council after a month of implementing the above measures, to evaluate and review these measures and recommend any improvements which may be useful.	Works and Infrastructure	A report to be presented to Council in October 2020.	07/10/2020
05/08/2020	Min.783 C08/20-311 Draft Wyatt Park Plan of Management	That Council: 1. Refer the Draft Wyatt Park Plan of Management to the NSW Department of Planning, Industry and Environment for Ministerial consent. 2. Upon receipt of Ministerial consent, place the Draft Wyatt Park Plan of Management on public exhibition for a period of 42 days, inviting submissions throughout that time in accordance with Section 38 of the Local Government Act 1993. 3. Provide a further report to Council detailing the outcome of the public exhibition period.	Works and Infrastructure	The Draft Wyatt POM will be referred to Ministerial consent, and then placed on public exhibition for a period of 42 days. Report to Council expected in February 2021.	03/02/2021
19/08/2020	Min.794 C08/20-525 NSW Public Spaces Legacy Program	That Council: 1. Endorse that a submission be prepared to the Department of Planning, Industry and Environment for Cumberland City Council to participate in the NSW Public Spaces Legacy Program. 2. Delegate authority to the General Manager to prepare a submission in accordance with the contents of this report. 3. Investigate the feasibility of the Pippin Trail project.	Environment and Planning	Submission under preparation.	30/08/2020
19/08/2020	Min.800 C08/20-520 Draft Data Breach Response Policy	That Council place the Draft Data Breach Response Policy on public exhibition for a period of 28 days, with a report to be provided back to Council following the conclusion of the exhibition period.	Finance and Governance	Document on exhibition until 25 September 2020. Report to be prepared to Council following exhibition period.	21/10/2020
19/08/2020	Min.801 C08/20-521 Finalisation of Milton Street, Lidcombe Proposed Road Closure	That Council: 1. Note the submissions received during the public notice period. 2. Endorse the lodgement of a road closure application for part of Milton Street, Lidcombe to the NSW Department of Industry - Lands. 3. Delegate authority to the General Manager to execute the documents to finalise this matter.	Finance and Governance	Road closure resolved by Council at 19 August 2020 Council Meeting. Council will now proceed to finalise the road closure process.	15/01/2021
19/08/2020	Min.802 C08/20-522 Part Board Street, Lidcombe - Proposed Part Closure and Sale	That Council: 1. Approve in principle the permanent closure of part of Board Street, Lidcombe as attached. 2. Advertise the proposed closure and sale of the laneway for a period of 28 days in accordance with S.38B of the Roads Act 1993. 3. Authorise the General Manager to undertake a sale process for the road once closed, in accordance with independent valuation and legal advice if no adverse submissions are received.	Finance and Governance	Public consultation being prepared for the proposed road closure.	02/06/2021
19/08/2020	Min.811 C08/20-530 Outcome of Expression of Interest Process - Lease over Oriole Park Baseball Club Building	That Council: 1. Note the potential uses for the site submitted by proponents through the Expression of Interest Process; 2. Accept in principle the submission made by the Western Sydney Wolves as the use conforms to the zoning of the site; 3. Further negotiate the final terms of the proposal and a 20 year lease; and 4. Receive a further report in future outlining the results of the negotiation process.	Finance and Governance	Council to commence lease negotiations with the Western Sydney Wolves.	04/11/2020



Item No: C09/20-536

## LINNWOOD ESTATE BUSINESS PLAN

Responsible Division: Finance & Governance  
Officer: Director Finance & Governance  
File Number: 4609429  
Community Strategic Plan Goal: *Transparent and accountable leadership*

### SUMMARY

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This report provides an update on the Linnwood Estate Business Plan and seeks Council's endorsement on the preferred options development.

### RECOMMENDATION

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**That Council:**

- 1. Note the finalised Business Plan conditionally approved by Heritage NSW for Linnwood Estate.**
- 2. Endorse Option 3 to proceed to a further feasibility assessment, as the highest and best use on site representing the best financial option to Council.**

### REPORT

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#### ***Background***

In July 2014 the Director of Department Primary Lands approved the sale of Tamplin Road Reserve land pursuant to Crown Land Act 1989. The funds are to be spent directly on the adjoining Linnwood Estate Reserve.

In 2016 the authorised sale of the property was unsuccessful as it required the transfer of title and Conservation Management Plan (CMP) to be up to date.

In May 2018, Council engaged KPMG to develop a Business Plan for Linnwood Estate at 11-35 Byron Road, Guildford. The purpose of the Business Plan was to outline how the most significant heritage aspects of the Estate could be maintained and enhanced via a financially sustainable model that would provide benefits to the broader community.

In June 2018, a meeting was held with the Office of Environment and Heritage (OEH) to discuss the purpose of KPMG's engagement and the proposed Business Plan. OEH advised that an updated CMP was required as the latest CMP was drafted in 2004 and hence, was no longer current. As a result, Council engaged City Plan Heritage to update the CMP and this was submitted to OEH in 2018.

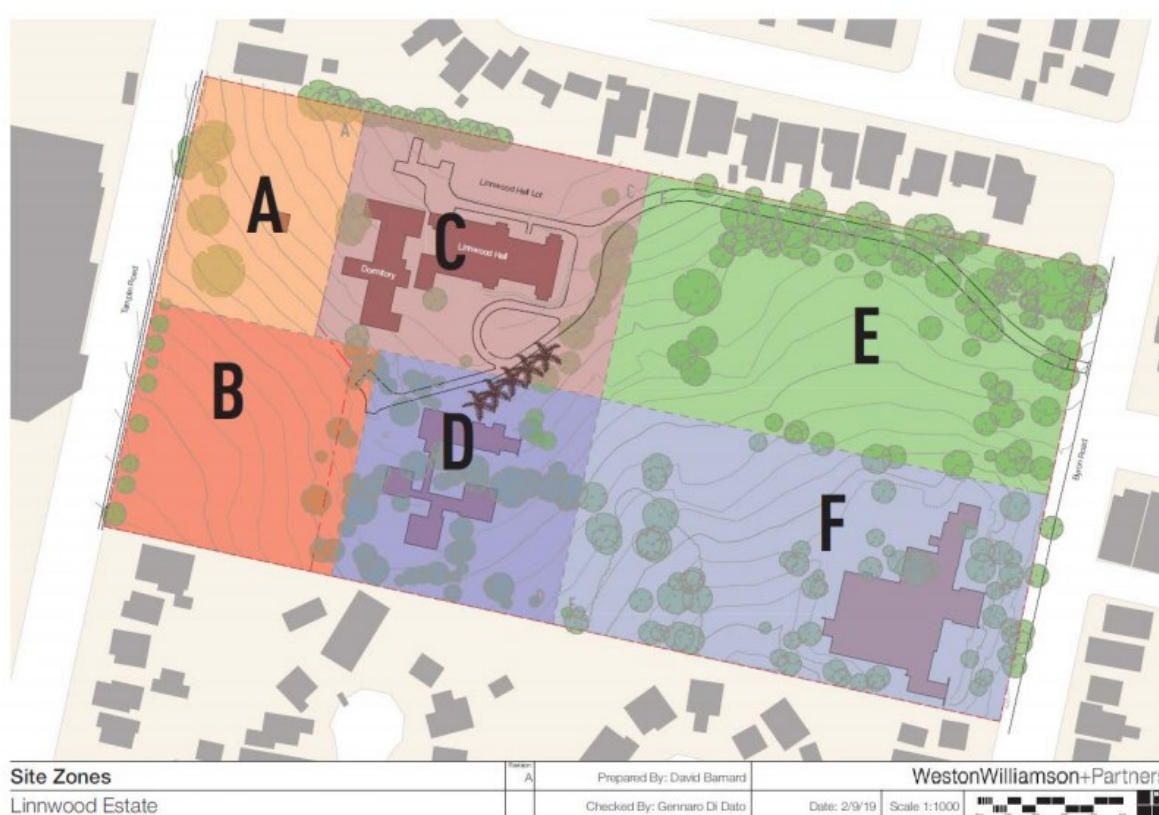


### ***Conditional Endorsement of the Conservation Management Plan***

In July 2020, Heritage NSW granted Council conditional endorsement of the CMP. It was stated that the final and full endorsement of the CMP will require Council to complete a separate archaeological assessment. The additional information requested by Heritage NSW is to be provided within 12 months from the date of the conditional endorsement. This exercise has been estimated by staff at approximately \$10,000.

### ***Business Plan Finalisation and Options Development***

In order to identify the potential future land uses of all buildings and land on the site, and make recommendations as to the highest and best use, the site was divided into six 'functional zones', as shown below. Each functional zone has the potential to be used in multiple ways, in accordance with the land use controls.



Based on this process, future land uses for each functional zone were identified. These future land uses were packaged into an option long-list and then evaluated using a multi-criteria analysis (MCA) framework. Four options scored highly in the MCA analysis and formed the short-listed options. These options proceeded to the financial appraisal stage and were presented to Council on 22 July 2020 at a Councillor briefing, and are summarised below. The detailed assessment and identification of options are further outlined in the attached Business Plan (Attachment 1).

## Option 1



Option 1a – low intensity development.

### **Key features include:**

- Low intensity housing development (5 lots)
- Removal of Faulds House
- Restoration and adaptive community reuse of McCredie Cottage

### **Key considerations:**

- Potential relocation of Sunnyfield clients to restored McCredie Cottage
- Demolition of Faulds House would regain the original southern visual setting of Linnwood House

## Option 2



Option 2a is the moderate development intensity option.

### **Key features include:**

- Moderate intensity housing development (10 lots)
- Removal of Faulds House
- Restoration and adaptive community reuse of McCredie Cottage

### **Key considerations:**

- Potential relocation of Sunnyfield clients to restored McCredie Cottage
- Demolition of Faulds House would regain most of the original southern visual setting of Linnwood House



### Option 3



Option 3a is the higher development intensity option.

#### **Key features include:**

- Higher intensity seniors housing or similar clustered development in Zone B, with rear lane.
- Removal of Faulds House
- Restoration and adaptive community reuse of McCredie Cottage

#### **Key considerations:**

- Potential relocation of Sunnyfield clients to restored McCredie Cottage
- Demolition of Faulds House would regain most of the original southern visual setting of Linnwood House
- Affects views across the western open space area

### Option 5



Option 5a mirrors Option 4a, plus community development in Zone F along Byron Road.

#### **Key features include:**

- Moderate intensity housing development (10 lots) in Zone B
- Removal of Faulds House
- Demolition of McCredie Cottage
- Moderate intensity development (20 lots) and additional community development in Zone F.

#### **Key considerations:**

- Potential relocation of Sunnyfield clients to additional development in Zone F.
- Demolition of Faulds House would regain most of the original southern visual setting of Linnwood House.

### Financial analysis

	Year 1	Year 2	Construction period	Year 3+
<b>Option 1</b>				
Capital costs	\$2,304,780	\$2,321,852	\$4,626,632	\$0
Income from development	\$625,000	\$639,063	\$1,264,063	\$0
Recurrent costs (before depreciation)	\$0	\$0	\$0	\$84,427
Recurrent revenue (including Rates)	\$0	\$0	\$0	\$49,202
Funding required for capex	(\$1,679,780)	(\$1,682,789)	(\$3,362,569)	(\$15,057)
Funding required for opex	\$0	\$0	\$0	(\$35,225)
<b>Option 2</b>				
Capital costs	\$2,304,780	\$2,321,852	\$4,626,632	\$0
Income from development	\$1,000,000	\$1,022,500	\$2,022,500	\$0
Recurrent costs (before depreciation)	\$0	\$0	\$0	\$84,427
Recurrent revenue (including Rates)	\$0	\$0	\$0	\$52,297
Funding required for capex	(\$1,304,780)	(\$1,299,352)	(\$2,604,132)	(\$15,057)
Funding required for opex	\$0	\$0	\$0	(\$32,130)

	Year 1	Year 2	Construction period	Year 3+
<b>Option 3</b>				
Capital costs	\$2,304,780	\$2,321,852	\$4,626,632	\$0
Income from development	\$2,175,000	\$2,223,938	\$4,398,938	\$0
Recurrent costs (before depreciation)	\$0	\$0	\$0	\$84,427
Recurrent revenue (including Rates)	\$0	\$0	\$0	\$64,677
Funding required for capex	(\$129,780)	(\$97,914)	(\$227,694)	(\$15,057)
Funding required for opex	\$0	\$0	\$0	(\$19,750)
<b>Option 5</b>				
Capital costs	\$3,297,473	\$3,342,341	\$6,639,814	\$0
Income from development	\$2,800,000	\$2,863,000	\$5,663,000	\$0
Recurrent costs (before depreciation)	\$0	\$0	\$0	\$84,427
Recurrent revenue (including Rates)	\$0	\$0	\$0	\$64,677
Funding required for capex	(\$497,473)	(\$479,341)	(\$976,814)	(\$21,609)
Funding required for opex	\$0	\$0	\$0	(\$19,750)

### **Recommended Option**

With the moderate level of development intensity (22-32 residential apartments), removal of Faulds House and the reuse of McCredie Cottage, Option 3 came in as the most economically viable option for Council, whilst maximising community use and maintaining key heritage considerations. The capital costs for option 3 were estimated at \$4,626,672, however the proposed income generated from the development meant that the required funding for capital expenditure came in around \$227,694. The capital expenditure for option 3 was the lowest of the four final options considered.

In addition, it should be noted due to Council's financial position, which has been detrimentally impacted by COVID-19, Council may not have the funds to ensure the long term economic viability of Linnwood Estate. Consequently, it may be in Council's interests to investigate options and seek advice in relation to relinquishing control and management of the Estate, and effectively transferring the management of the Estate back to the NSW Government. This could be a viable option to ensure the sites longevity and heritage significance is enhanced and maintained to a high standard without prolonged delays.

### **Meeting with Historic Houses Association of Australia**

Council staff have also had a preliminary meeting with Historic Houses Association of Australia to discuss potential options for support of the Linnwood Estate. A further meeting is booked with Council officers and the board of HHA to discuss what levels of advocacy and support can be provided by the association to Council.

### **Next Steps**

Following the recommendation of the preferred option, the next steps would involve a final detailed analysis of the preferred option, including final detailed design and capital cost estimation, updated financial modelling with updated property assumptions, and final planning concepts.

In addition, a separate archaeological assessment for the Linnwood Estate is required to ensure the conditional endorsement of the CMP are fulfilled.

## **COMMUNITY ENGAGEMENT**

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As part of the Business Plan, community engagement with relevant key stakeholders and existing key user groups was held to seek their inputs in the site usage and activation. The outcome of these engagement activities can be found in the attached Business Plan (attachment 1) under section 5.1 Engagement activities.

## **POLICY IMPLICATIONS**

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There are no policy implications for Council associated with this report.

## **RISK IMPLICATIONS**

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There are currently significant risk implications associated with Linnwood Estate. Currently, parts of the site require significant capital works to ensure the structures are compliant with the Building Code of Australia. As the custodian of the site, there is a significant risk associated with Council not maintaining the site given the site is of state heritage significance. Should Council not have the capital to restore/maintain the site, other options should be investigated before elements of the site fall further into disrepair.

Council is required to take action by way of either endorsing an option in the business plan or investigating options to transfer custody of the site back to the NSW Government.

## FINANCIAL IMPLICATIONS

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Due to restrictions placed upon Council in the draft CMP the sale of Tamplin Reserve Trust is no longer viable. The Business case seeks to address alternative to the sale and seek funds to allow Council to restore the sight.

Therefore, the next step of the business plan is to undertake a further analysis of the preferred option should Council resolve to proceed with one. Currently, the redevelopment options referred to in the Business Plan are unfunded. Council may be required to put the project on hold until a funding source can be identified, which is a risk as outlined above. There is also the potential that Council may not have the required budget to proceed with the full endorsement of the CMP, as a separate archaeological assessment for the Site is required by August 2021. This exercise will cost Council approximately \$10,000 and must be completed to enable finalisation of the Conservation Management Plan.

## CONCLUSION

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It is recognised that this Business Plan would be required to be followed by a feasibility analysis of the preferred option. It is recommended that Council proceeds with option 3 as the highest and best use on site, and to complete the detailed analysis and additional archaeological assessment to ensure the full endorsement of the CMP, subject to funds being available.

## ATTACHMENTS

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1. Business Plan [↓](#)





DOCUMENTS  
ASSOCIATED WITH  
REPORT C09/20-536

Attachment 1  
Business Plan



# Linnwood Estate Business Plan

# Contents

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# Executive summary

## Introduction

There are three main objectives of the future use of Linnwood Estate:

1. To maintain and enhance the most significant heritage aspects of the Estate,
2. To ensure that use of the Estate benefits the broader community, and
3. To ensure that Estate is financially sustainable.

The purpose of this Business Plan is to identify the potential future land uses of all buildings and land on the site, and make recommendations as to the best use of the site and implementation. The Business Plan includes analysis of the:

- value of the site to the community, including heritage and social uses;
- potential options for the site, its uses, activation and use for the entire community;
- costs associated with each of the possible uses and the net benefit to the community;
- range of potential outcomes for Council from redevelop/own/operate through to returning custodianship back to the State; and
- engagement with key stakeholders to inform the process.

A broad range of inputs have been referred to identify and evaluate the future land use options for the Estate. The updated Conservation Management plan (CMP) was prepared by City Plan Heritage in September 2019, updated based on comments from Heritage Council NSW in May 2020, and is a key input to this Business plan. The CMP provides policies, guidelines and recommendations for the ongoing conservation of the Estate's significant heritage elements.

## Strategic context

Linnwood Estate (the Estate) is located in Guildford in the south east of the Cumberland local government area and approximately 20 kilometres in the west of Sydney CBD. The Estate is an 11.5 hectare site with heritage links and Crown land subdivision approval for a funding model to be determined for the restoration and sustainability of the Estate. The Guildford commercial precinct and train station are less than 1 kilometre from the Estate. The general character of the surrounding area is residential, bordering industrial with some recreational use including Guildford Leagues and McCredie Park.

## 'Linnwood Estate' – the current site

The site is occupied by three complexes of buildings: Linnwood House and its dormitory extensions; McCredie Cottage; and Faulds House. Other built structures and features on site include a laundry to the west of Linnwood House, and the Summer House in the gardens to the south of Linnwood House. The buildings on the site are in varying conditions, with most not meeting an acceptable standard asset condition rating.

## Overview of consultation

Community stakeholder interests and expectations were assessed by City Plan Heritage for the purposes of drafting the 2019 CMP. In this assessment, the community expressed the expectation that the property is to be financially viable, whilst maximising community use and access.



Further consultation was undertaken with a select number of stakeholder that are directly associated with the Estate for the purposes of developing this Business Plan. The purpose of consultation was to understand the perceptions of these stakeholders regarding the current and future uses of the site and any changes to the grounds and/or buildings that may be required. Community stakeholder responses and recommendations from Sunnyfield, Friends of Linnwood and the Guildford Leagues Club were taken into consideration in the options development and assessment processes.

Engagement with these community stakeholders found that, amongst other things:

- There is a common interest in seeing the site activated;
- Sunnyfield is interested in remaining a licensee on Site, but is open to relocation within the site and not strictly attached to continuing operating out of Faulds House and the Dormitory;
- There is no opposition to the removal of Faulds House, however, the Friends of Linnwood expressed a preference for the rejuvenation and adaptive reuse of McCredie Cottage for a community purpose over demolition; and
- Improving the amenities in Linnwood House and on-site parking would improve the opportunities for use of and access to the site.

Further to the community consultation was dialogue with Heritage Council NSW in regards to the Linnwood Conservation Management Plan, to ensure the results from the options development and analysis conformed to advice from the Heritage Council.

### Identification of options

For the purposes of options development, the site was divided into six 'functional zones', as shown in Figure 1. Each functional zone has the potential to be used in different ways, with consideration of:

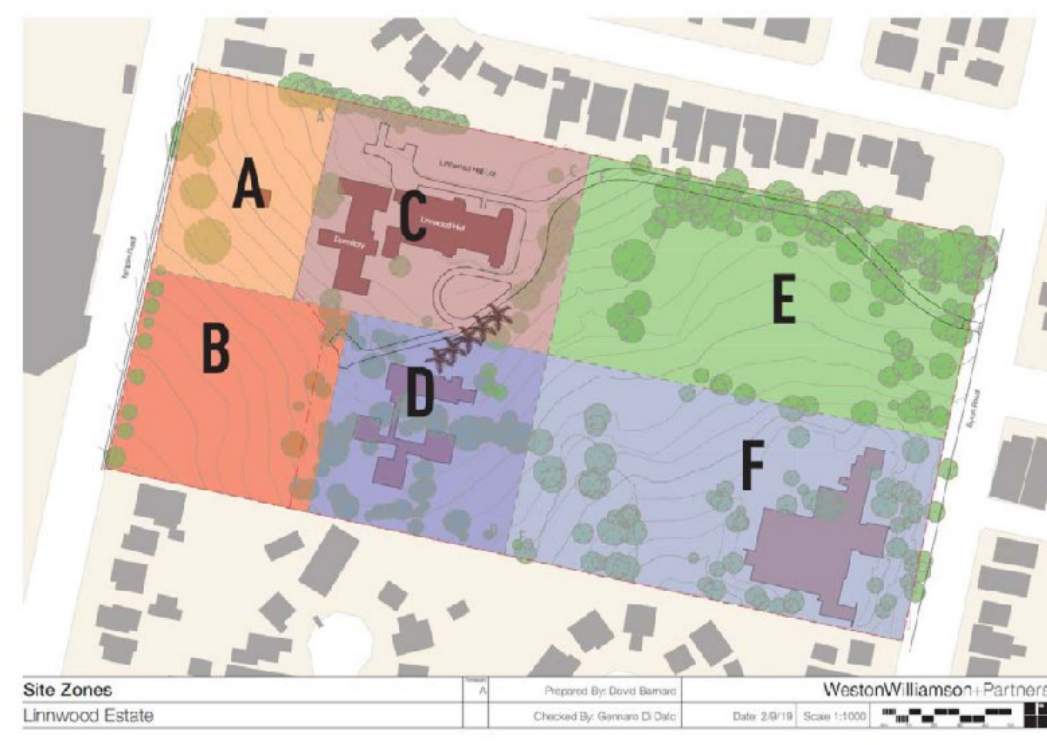
- the applicable planning controls in the Holroyd LEP (including zoning and permitted land uses);
- constraints imposed by way of its reservation as a Crown Reserve; and
- the policies, guidelines and recommendations provided in the Conservation Management Plan for Linnwood Estate.

Based on this process, future land uses for each functional zone were identified. Seven universal design principles guided the identification of viable land uses. These future land uses were then packaged into an options long-list. The long-listed options were evaluated using a multi-criteria analysis (MCA) framework, which considers the high-level qualitative merits of each option.

The future land uses that were considered (with each scored for desirability) for the various functional zones included:

- Passive open space;
- Low intensity housing / Moderate intensity housing / Higher intensity housing;
- Adaptive reuse of Linnwood House and the Dormitory
- Retention and adaptive reuse of Faulds House / Demolition of Faulds House
- Restoration of McCredie Cottage, and adaptive community reuse / Demolition of McCredie Cottage and varied development.

Figure 1: Map of functional zones for options identification



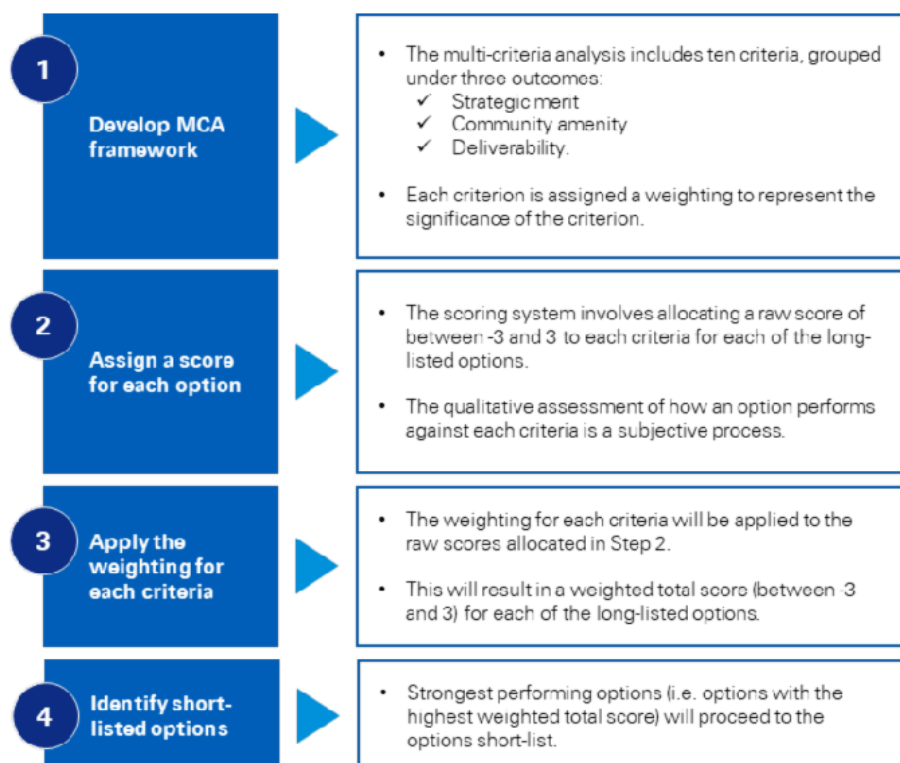
## Assessment of options

### Identifying the options short-list

A multi-criteria analysis was applied to the options long-list to identify a short-list of options that perform strongly against qualitative criteria. A multi-criteria analysis is a form of appraisal that is often used when it is not possible or practical to quantify all costs and benefits in monetary terms. It allows for the consideration of the relative qualitative contribution of each option to each performance criterion. It also provides a degree of structure to the evaluation process, which inevitably involves a degree of subjective judgment where qualitative elements are considered. Figure 2 provides an overview of how the multi-criteria analysis was applied to identify the short-list of options, followed by a summary of the multi-criteria analysis framework in Table 1.

Each option has its relative strengths. However, performance in particular sub-criteria commonly distinguished the stronger options. The stronger options provided opportunities for community use, and in particular, the opportunity for Sunnyfield to relocate and continue its operations within the site if Faulds House was removed. Options also performed strongly where open space was maximised across the site, with the views and visual curtilages being respected and not impacted in any way.

*Figure 2: Summary of the application of the multi-criteria analysis*



Four options scored highly in the multi-criteria analysis and formed the short listed options. These options are summarised in Figure 3 and were selected to be short-listed and proceeded to the financial appraisal stage. Master planning was completed for the short listed options.

*Table 1: Summary of multi-criteria analysis framework*

	CRITERIA	WEIGHTING (%)
<b>1</b>	<b>Strategic merit</b>	
<b>1a</b>	Alignment with Greater Sydney Region Plan and Central City District Plan	5
<b>1b</b>	Strategic alignment Council strategic plans	5
<b>2</b>	<b>Community amenity</b>	
<b>2a</b>	Retaining heritage value of the site	30
<b>2b</b>	Provision of open space and recreational opportunities	15
<b>2c</b>	Delivering affordable or social housing	5
<b>2d</b>	Provides opportunity for community use	15
<b>2e</b>	Provides opportunities for passive surveillance of the site	5
<b>3</b>	<b>Deliverability</b>	
<b>3a</b>	Requires amendments to planning instruments	10
<b>3b</b>	Minimise complex stakeholder management	5
<b>3d</b>	Ease of management	5

Figure 3: Overview of the base case and short-listed options

Base Case	
<ul style="list-style-type: none"> <li>• No new works or development.</li> <li>• Faulds House is retained, and McCredie Cottage is renovated for community purposes.</li> <li>• Sunnyfield to renew license and remain in Faulds House and Dormitory.</li> <li>• Maximised open space for passive recreational use.</li> </ul>	
Option 1	Option 2
<ul style="list-style-type: none"> <li>✓ Remove Faulds House.</li> <li>✓ Restoration and adaptive community reuse of McCredie Cottage.</li> <li>✓ Low intensity housing development (5 lots) in south-western corner.</li> <li>✓ Option for Sunnyfield to relocate to McCredie Cottage.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Remove Faulds House.</li> <li>✓ Restoration and adaptive community reuse of McCredie Cottage.</li> <li>✓ Moderate intensity housing development (10 lots) in south-western corner.</li> <li>✓ Option for Sunnyfield to relocate to McCredie Cottage.</li> </ul>
Option 3	Option 5
<ul style="list-style-type: none"> <li>✓ Remove Faulds House.</li> <li>✓ Restoration and adaptive community reuse of McCredie Cottage.</li> <li>✓ Higher intensity seniors housing or similar clustered development in south-western corner.</li> <li>✓ Option for Sunnyfield to relocate to McCredie Cottage.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Remove Faulds House.</li> <li>✓ Remove McCredie Cottage.</li> <li>✓ Moderate intensity housing development (10 lots) in south-western corner.</li> <li>✓ Moderate intensity affordable housing (9 lots) and disability housing (11 lots) in the south-east corner.</li> <li>✓ Develop community facility along Byron Road, with option for Sunnyfield to relocate.</li> </ul>

### Short-listed options and Master Plans

Master planning of the options selected for short-listing was commissioned with Weston Williamson and is provided at **Appendix D: Linnwood Master Plan Design Report**.

The dialogue with Heritage Council applied parameters to the acceptability of development plans, thereby finalising the options in the short-list that were then assessed for financial analysis.

## Financial Analysis (FA) of the options short-list

- FA in Table 2 below demonstrated the financial impact of each option.

*Table 2 Financial impact the options (\$ mill)*

Option 1	Construction period	Ongoing per annum
Capital costs	\$4,626,632	\$0
Income from development	\$1,264,063	\$0
Recurrent costs (before depreciation)	\$0	\$84,427
Recurrent revenue (including Rates)	\$0	\$49,202
Funding required for capex	(\$3,362,569)	\$0
Funding required for opex	\$0	(\$35,225)

Option 2	Construction period	Ongoing per annum
Capital costs	\$4,626,632	\$0
Income from development	\$2,022,500	\$0
Recurrent costs (before depreciation)	\$0	\$84,427
Recurrent revenue (including Rates)	\$0	\$52,297
Funding required for capex	(\$2,604,132)	\$0
Funding required for opex	\$0	(\$32,130)

Option 3	Construction period	Ongoing per annum
Capital costs	\$4,626,632	\$0
Income from development	\$4,398,938	\$0
Recurrent costs (before depreciation)	\$0	\$84,427
Recurrent revenue (including Rates)	\$0	\$64,677
Funding required for capex	(\$227,694)	\$0
Funding required for opex	\$0	(\$19,750)

Option 5	Construction period	Ongoing per year
Capital costs	\$6,639,814	\$0
Income from development	\$5,663,000	\$0
Recurrent costs (before depreciation)	\$0	\$84,427
Recurrent revenue (including Rates)	\$0	\$64,677
Funding required for capex	(\$976,814)	\$0
Funding required for opex	\$0	(\$19,750)

Notes on the above analysis:

- Capital costs include the demolition of Faulds House.
- Income from development is price paid by a developer for the allocated lots in each option, estimated on yield per square metre based on design density in master plan.
- Recurrent costs include an estimate for property manager, security, electricity, water and maintenance. Please see Appendix B for details of the estimates.



## Summary of analysis

The FA combined with the broader site analysis demonstrates a number of salient points:

- In contrast to historic approaches of closing off the site and developing along Tamplin Road, discussions with stakeholders and contemporary analysis have demonstrated that the optimal outcomes for the site will be achieved if only 'Zone B' within The Tamplin Road Reserve Trust is developed with residential premises, enabling through-access for the open space.
- The capital financial requirement to redevelop Linnwood and McCredie has a nominal cost of \$4.63 million and a present value of approximately \$4.57 million. This increases to approximately \$6.64 million nominal and \$6.45 million present value if McCredie is to be demolished and replaced with a new community facility.
- The above two points result in various pathways available to the Council:
  - Low density terrace development in 'Zone B' within The Tamplin Road Reserve Trust, rendering a funding gap in the magnitude of \$2.5 million to \$3.5 million after receiving the development revenue.
  - Medium density apartment development in 'Zone B' in the Tamplin Road Reserve Trust, which is estimated to return income from the development in line with the cost of redevelopment to the rest of the site (contingent on a final business case).
  - Low density terrace development in 'Zone B' in the Tamplin Road Reserve Trust supplemented by low density terrace development in 'Zone F' within The Linnwood Estate Reserve Trust, which is estimated to return income from the development in line with the cost of redevelopment to the rest of the site, including demolition of McCredie and construction of a new community facility (pending final business case).
  - Demolition of McCredie is recognised to present more significant challenges to Heritage, and development in Zone F is recognised more significant challenges to planning to implications.

## Recommendation and implementation

- This Business Plan presented the master plans and strategic analysis including preliminary financial analysis to Council to assess the options and select a preferred option to progress.
- Based on the analysis and assumptions made, Option 3 performs the best and would be recommended based on the approach adopted with Cumberland. This included a preferred approach to balancing the revenue from development, the construction costs, and the due respect of the heritage of the site in the proposed design.
- Confirmation of the recommended option is required to verify the financial impact in greater detail and develop necessary strategies to meet the planning and Heritage requirements.
- Following endorsement of the preferred option, the next steps should involve final detailed analysis of the preferred option, including final detailed design and capital cost estimation, updated financial model with updated property assumptions, and final planning determinations (i.e. all specified to the preferred option).
- Given the requirements of the redevelopment, there is scope to include an application to the Crown Reserve Improvement Fund (CRIF) for assistance.

# Introduction

## Approach to developing the Business Plan

This Business Plan provides recommendations that address the appropriate and viable uses of the site, a management structure for the site, and funding and revenue generation. A broad range of inputs have been used to assess the land use planning, cost and feasibility of the development of Linnwood Estate. Key considerations that have underpinned the outcomes of this Business Plan include:

- thorough and detailed consultation that has been undertaken to inform the development and assessment of options;
- the use of the site as an active and accessible community resource;
- the ongoing economic sustainability of the site; and
- the need to conserve and enhance the heritage value of the site.

A draft of the Business Plan was provided to Council in December 2019. At that point, a review of the Linnwood Conservation Management Plan (CMP) by the Heritage Council of NSW meant the Business Plan drafting was paused.

Comments from Heritage Council were actioned in the CMP and this enabled the Business Plan to be resumed in May 2020.

## Scope

Council has aimed to produce a Business Plan for the whole of Linnwood Estate that identifies the potential future use of all buildings and land on the site. The principal aims of the Business Plan are to:

- make recommendations as to what the best use of the building and grounds are based on consultation with relevant stakeholders. The recommendations will take into account the heritage constraints of the site.
- make recommendations that will ensure recurrent funding of the property. This includes ongoing management, maintenance, and conservation of the site over time.
- develop a plan that will set the ground work for the long term use and management of the site while ensuring that it is economically viable.

The Business Plan includes analysis of the:

- value of the site to the community, including heritage and social uses;
- potential options for the site, its uses, activation and use for the entire community;
- costs associated with each of the possible uses and the net benefit to the community; and
- engagement with key stakeholders to inform the process.

## Limitations

It is important to recognise the following limitations of the Business Plan:

- The extent of stakeholder consultations was limited to activities required to gather information to inform the options development.
- The Business Plan does not conform to all of the requirements of a NSW Treasury Business Case, although it draws on similar principles.
- References have been made to draft versions of Council strategic plans and documents, which may be different to final versions released by Council. This report will not be updated to reflect any future changes to Council strategic plans and documents referenced in this Business Plan.
- This Business Plan is not intended to be a substitute for legal advice. The options development in Chapter 6 and recommendations identified in Chapter 8 have been developed in recognition of all relevant regulatory and legal requirements, but do not guarantee compliance with all relevant regulatory and legal requirements.
- This Business Plan was prepared with reliance on the September draft version of the 2019 CMP, prepared by City Plan Heritage. The 2019 CMP had not been endorsed by the Heritage Council at the time of developing this Business Plan, however has since been conditionally endorsed as of July 2020.

## Document structure

The remainder of the document is structured as follows:

- **Strategic context** – this chapter provides a high level outline of the community profile and a description of Linnwood Estate's immediate surroundings.
- **Linnwood Estate** – this chapter provides an outline of Linnwood Estate's history, physical condition, social and heritage value and current land use.
- **Consultation overview** – this chapter provides a summary of the stakeholder consultation undertaken to inform this Business Plan.
- **Identification of options** – this chapter explains the approach to identifying permissible land uses of the site, and how the options have been developed.
- **Assessment of options** – this chapter outlines how the multi-criteria analysis has been undertaken, including the qualitative assessment and economic and financial analysis of the five options.
- **Summary of results** – this section provides a synopsis of the implications of each short-listed option with focus on the financial impact.
- **Implementation** – this chapter provides a high level implementation plan, including management considerations and planning implications.

The Business Plan is supported by the following appendices:

- **Appendix A** provides a register of relevant documents referred to throughout this Business Plan.
- **Appendix B** provides the further detail on the financial appraisal methodology including sensitivity analysis.







- **Appendix C** provides Land use definitions under the Holroyd LEP.
- **Appendix D** provides the Linnwood Master Plan Design Report.

# Strategic context

## Community profile

### Profile of Cumberland

There are several key defining features of the Cumberland area:

	<b>Age</b>	The Cumberland area has a relatively young community, with a median age of 32 years. It is expected that median age will increase to 34 years by 2036, with the proportion of high school aged children (12 to 17 years) and people 70 years and over expected to increase by 55% and 68% respectively.
	<b>Cultural diversity</b>	The Cumberland area has an estimated population of 242,524. This population is forecast to increase to 304,811 by 2036 (an increase of 26%). Cumberland is a culturally rich and diverse area, with the highest proportion of refugees per capita and the highest number of people seeking asylum of any local government area in NSW. <sup>1</sup> More than half the population is born overseas and speak a language other than English at home.
	<b>Households and housing</b>	The five years from 2011 to 2016 saw an increase in the proportion of higher density dwellings (apartments/units) rise from 15% to 18.7%. Couple families with children make up 41.4% of the housing mix, and are expected to remain the common house
	<b>Education, employment, and income</b>	The Cumberland area has a high proportion of people attending school, TAFE or university (25.9%) and people looking for work (9.5%). The median weekly household income in 2016 was \$1,377, compared to \$1,745 for Greater Sydney. The main industries in Cumberland contributing to local employment are manufacturing, retail trade, transport, postal and warehousing, construction, healthcare and social assistance, and education and training, providing over 86,000 local jobs in over 20,000 businesses. Cumberland's traditionally strong industrial base is owed to accessibility to various distribution catchments across metropolitan Sydney.
	<b>People with disability and carers</b>	5.8% of people in the Cumberland area need help in their day to day lives due to disability, with 11.2% of the Cumberland population providing unpaid care for people with a disability or seniors in the Cumberland area.
	<b>Community organisations</b>	There are more than 450 community funded and unfunded community organisations in the Cumberland area.

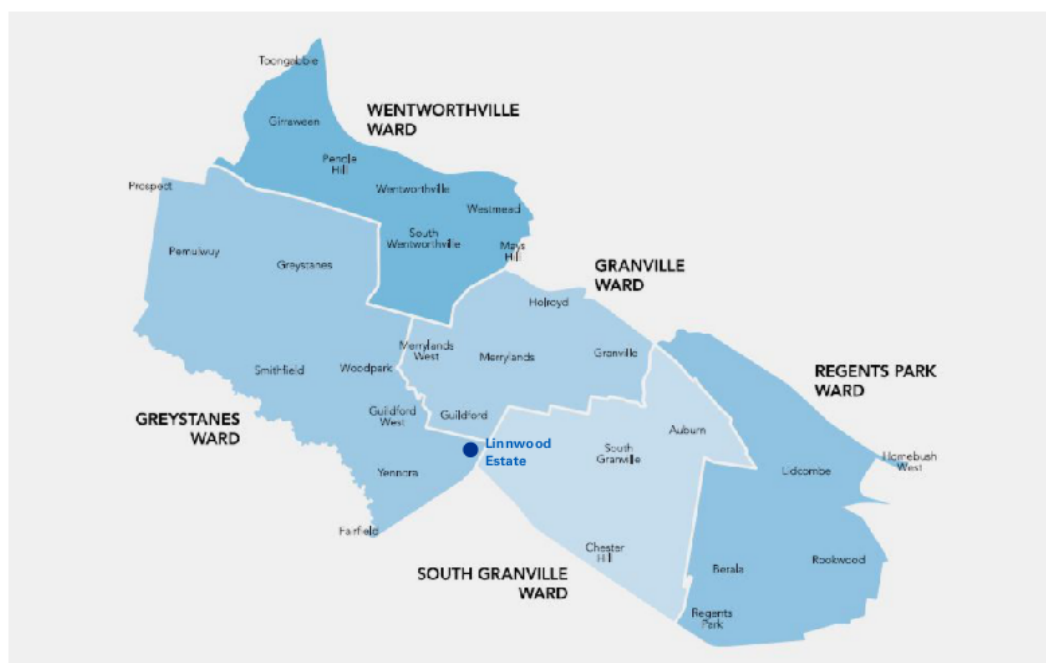
<sup>1</sup> Draft Cumberland Community Facilities Strategy 2019-2029, p 18

## Profile of surrounding community

Cumberland is made up of five wards, each with a distinct built form character and land use mix. Linnwood Estate is located in Greystanes Ward, in the south western reaches of the Cumberland area. Greystanes Ward has a population of 40,245. A high proportion of households are composed of couple families with children (56.8%), retirees and people 60 years and over (19.5%) and unpaid carers for people with a disability or seniors (11.2%). There is low population growth predicted in Greystanes Ward, relative to the other four wards in the Cumberland LGA. Around 80% of all dwellings are low density, making Greystanes Ward one of the least dense communities in Cumberland. This corresponds to the low public transport usage rates, and reflects the limited access to rail with the exception of Yennora rail station on the eastern boundary.

The existing and growing industry sector, paired with the land use planning signalling a shift towards industries of the future such as advanced technology manufacturing, is anticipated to result in increased economic activity in the area. Social infrastructure such as Linnwood Estate help to increase the liveability of the region and help to attract a skilled and diverse workforce required to realise the potential economic benefits of the new economy.

*Figure 4: Greystanes Ward, one of five wards within Cumberland*



*Source: Cumberland 2030: Our Local Strategic Planning Statement*

## Relevant government policies and strategies

### Cumberland Council

#### **Draft Cumberland Community Facilities Strategy 2019**

This strategy provides a direction for Council's programming, management, planning and provision of community facilities into the future.



The strategy is informed by an assessment of Council's community facilities relating to the distribution, quantity, quality, use and utilisation of Council facilities. It identifies key areas for improvement and opportunities for consideration in the development of options for this Plan.

Specifically, the strategy identifies that a planning priority is to enhance and promote the heritage value of significant facilities and their surrounding areas by exploring opportunities to enhance and promote Linnwood House through development and implementation of the Linnwood House Business Plan (Strategy 3.3)

#### ***Draft Cumberland 2030: Local Strategic Planning Statement***

The planning statement identifies 16 planning priorities for the Cumberland area's economic, social and environmental land use needs over the next ten years. It will guide the content of the Council's Local Environmental Plan (LEP) and Development Control Plan (DCP) and inform broader Council policy and other planning tools, such as the Local Infrastructure Contributions Plan.

It is important that the short-listed options align with the Council's long term planning priorities, and services community's current and future needs. In particular, planning priorities and associated actions for the housing and community, and environment and open spaces themes have been considered as part of the short-listing process.

#### ***Cumberland Draft Open Space and Recreation Strategy 2019-2029***

The strategy reviews the existing provision and demand for open space and recreation in the LGA, and provides four overarching strategic directions to guide Council's planning for open space and recreational facilities.

The strategy identifies the growing need for open space and opportunities for participation in sport and recreation in Cumberland in terms of hierarchy and size, quantity, function, quality and distribution and connectivity. These factors are considered in the short-listing process.

#### ***Community Engagement and Participation Strategy***

The strategy outlines the Council's guiding principles and approach to community engagement. The objectives of the strategy are to build Council's capacity for engagement, inform and involve the community, ensure the Council is accountable and transparent in its use of community participation, and to seek continuous improvement in participation.

The approach to community engagement outlined in the strategy has been used to guide Phase Two of consultation activities, which involved the public exhibition of the five shortlisted options.

The strategy aligns with Priority 3 of the Draft Cumberland Community Facilities Strategy 2019, to create facilities and spaces that reflect local culture and heritage based on facility user and community feedback.

#### ***Greystanes Ward Place Development Plan 2019-2020***

The plan provides a snapshot of the planning priorities Greystanes Ward community, and a profile of each of its incumbent suburbs.

The plan provides a neighbourhood profile of Guildford and maps the cultural infrastructure and open space surrounding Linnwood Estate. It also provides a visual representation of Guildford's land use context.

## **NSW Government**

#### ***Greater Sydney Region Plan***

The Greater Sydney Region Plan, released by the Greater Sydney Commission in 2018, sets a 20 years plan for Greater Sydney as a 'Metropolis of Three Cities' to inform the growth and change across the five districts which make up the region. It is a guide for land use, transport and infrastructure planning and investment for the three tiers of government, State agencies, the private sector and the wider community.

This plan provides a liveability, productivity and sustainability framework for the delivery and monitoring of the plan, including objectives and potential indicators. The renewal of Linnwood Estate

fits into the wider context of this vision of Greater Sydney, and is guided by the direction provided in the plan. Several objectives of the Greater Sydney Region Plan are relevant to Linnwood Estate, including the objective to give people housing choices, celebrate diversity, increase access to open space and value green spaces, and enhance opportunities for social connection.

#### ***Central City District Plan***

The Central City District Plan sits under the Greater Sydney Region Plan, and sets out the planning priorities and actions for Blacktown, Cumberland, Parramatta, and The Hills. The District Plan envisions that the Central City will be the fastest growing district over the next 20 years, and anticipates major transformation of the district with the addition of over 200,000 dwellings, significant investment in transport, health and education, and transition from traditional industries to advanced manufacturing.

Amongst its objectives, the District Plan includes an emphasis on the need to support cohesive and socially dynamic communities and to enhance the opportunities for safe walking and cycling paths. Guildford is located in the Central City District, and the future of Linnwood Estate should align with the district's changing context.

#### ***Sydney Green Grid***

The Government Architect of NSW released the Sydney Green Grid report in 2017. The report maps the hydrological, recreational and ecological fragments of each district in the Greater Sydney Region. It informs the integration of open space with quality urban design outcomes and environmental resilience at a metropolitan scale, and ties in with the liveability directions provided in the Greater Sydney Regional Plan and the Central City District Plan.

The Sydney Green Grid mapping for the West Central District identifies a scarcity in public open space and recreational opportunities in the Guildford area. Although Linnwood Estate is not specifically identified as a preliminary priority project, the open space on the site has the potential to contribute to the green infrastructure network in Cumberland City.

#### ***Greener Places***

This draft policy was developed by the Government Architect to direct the strategic approach to planning, design and management of green infrastructure in urban areas across NSW. The document builds on the Sydney Green Grid. It establishes benchmarks for the future of NSW built environments. The policy includes four principles intended to delivery green infrastructure in NSW including integration, connectivity, multi-functionality and participation.

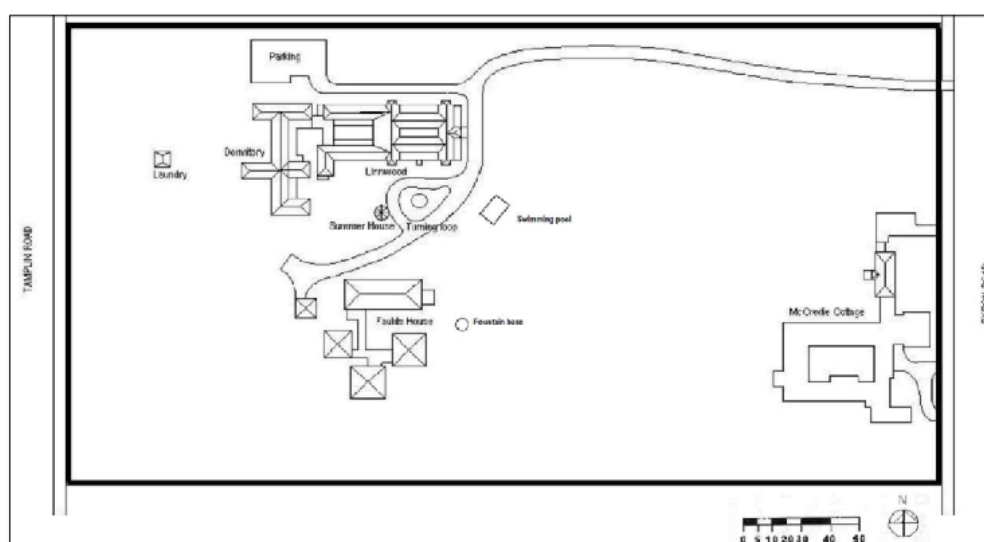
# 'Linnwood Estate'

## History of Linnwood Estate

The original house at Linnwood was constructed in 1891 by George McCredie, former engineer, parliamentarian, and mayor. Following George McCredie's death in 1903, Linnwood continued to be the family home of the McCredie's until in 1917 the property was leased to the NSW Department of Education (DOE) for use as the first, and only, state Truant School. Linnwood operated as the Guildford Truant School until 1937, when the property was adapted to become a Girls Home Science School, for state wards, operated by the Welfare Department.

In the 1970s, two additional buildings were constructed, McCredie Cottage for pre-schooled aged boys and girls, and Faulds House for high school aged girls (Figure 1). The Department of Community Services (DOCS) continued to manage and utilise the property into the late 1990s, until being surplus to departmental requirements, the property was vacated in 1999.

*Figure 5: Map of Linnwood Estate*



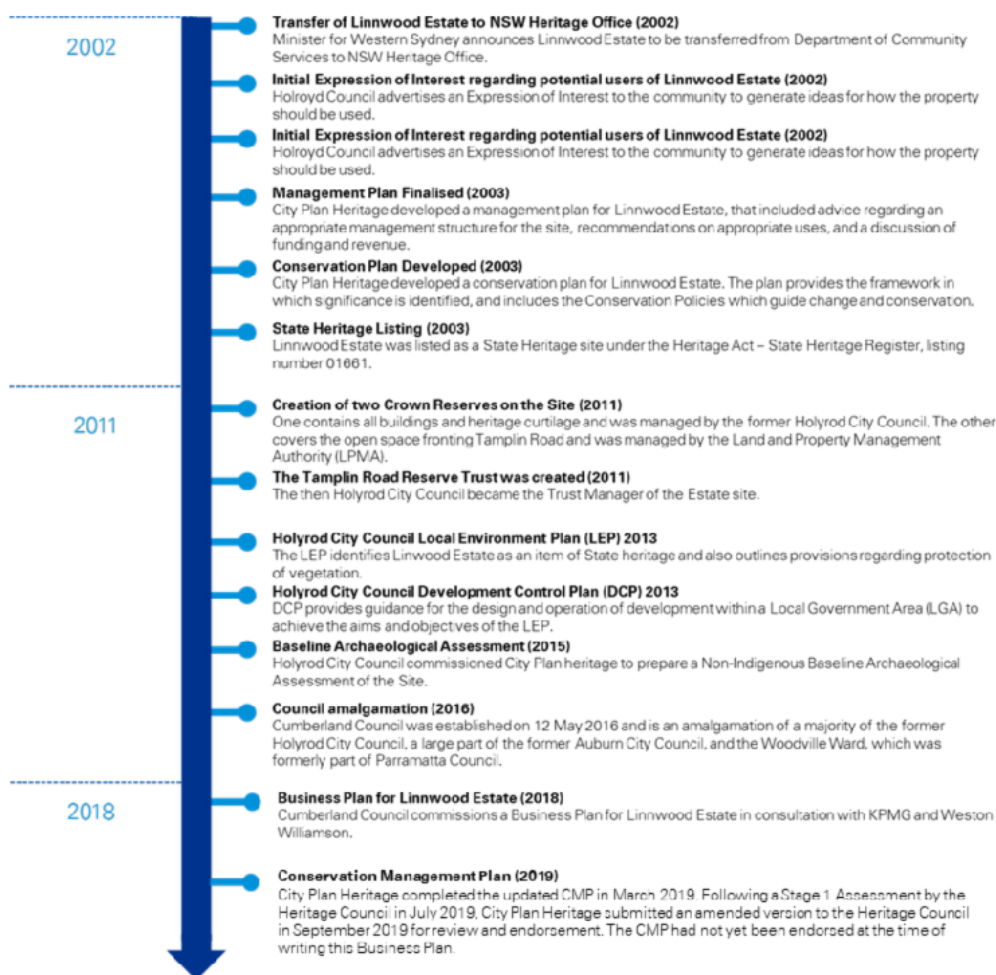
*Source: City Plan Heritage, Conservation Management Plan 2019*

Following campaigning from resident groups and Holroyd Council to retain and conserve Linnwood Estate as a community asset, the property was transferred from DOCS to the NSW Heritage Office in 2002 and was given State Heritage Status in 2003. In 2011, the Minister for Lands approved the creation of two Crown Reserves over the Linnwood Estate. The Linnwood Estate Reserve Trust (R1031568) which contains all buildings and heritage curtilage was managed by the former Holroyd City Council. The Tamplin Road Reserve Trust (R1031588) covers the open space fronting Tamplin Road was managed by the Land and Property Management Authority. In 2013, the former Holroyd City Council became the Trust Managers for the Tamplin Road Reserve Trust. It is relevant to note that the NSW Government (via the Department of Planning) had been responsible for the cost of maintaining the site. Council control of the land came with agreement with the Department to develop the Tamplin Road reserve to cover the cost of repair and maintenance of Linnwood. In 2014, the Minister provided consent to sell the land and it was advertised for sale in 2016.

## Recent history

- Council has maintained the grounds over Linnwood estate from 2000-2011, while the building remains title of Department of Planning.
- 2011 Council was appointed Trustee of Linnwood Estate Reserve, 2013 accepted Tamplin Road Reserve Trust due cost to maintain the land and intent to develop Tamplin Road.
- 2014 Minister received conditional consent to sell land.
- 2014-2015 Application for subdivision was delayed by OEH regarding planning issues
- 2016 Crown Lands signed consent to sell and advertised the sale in Parramatta Advertiser.
- Council estimates cost to restore houses \$4.5m in 2013 costs.
- Sale proceed for 10,224 SQM was \$6m (noting this would have sacrificed the thoroughfare of the site).
- 2017 Council was required to develop business case, which was delayed by obsolete Conservation Management Plan. This has now been conditionally endorsed by OEH.
- 2019 Crown Land advised that changes to *CLM Act* (2016) now require further high level of consultation not required in 1989 Act. The sale of the land no longer guaranteed.
- 2019 Council has undertaken the development of a new a business plan.

*Figure 6: Timeline for the development of the Business Plan for Linnwood Estate*



## Land area and topography

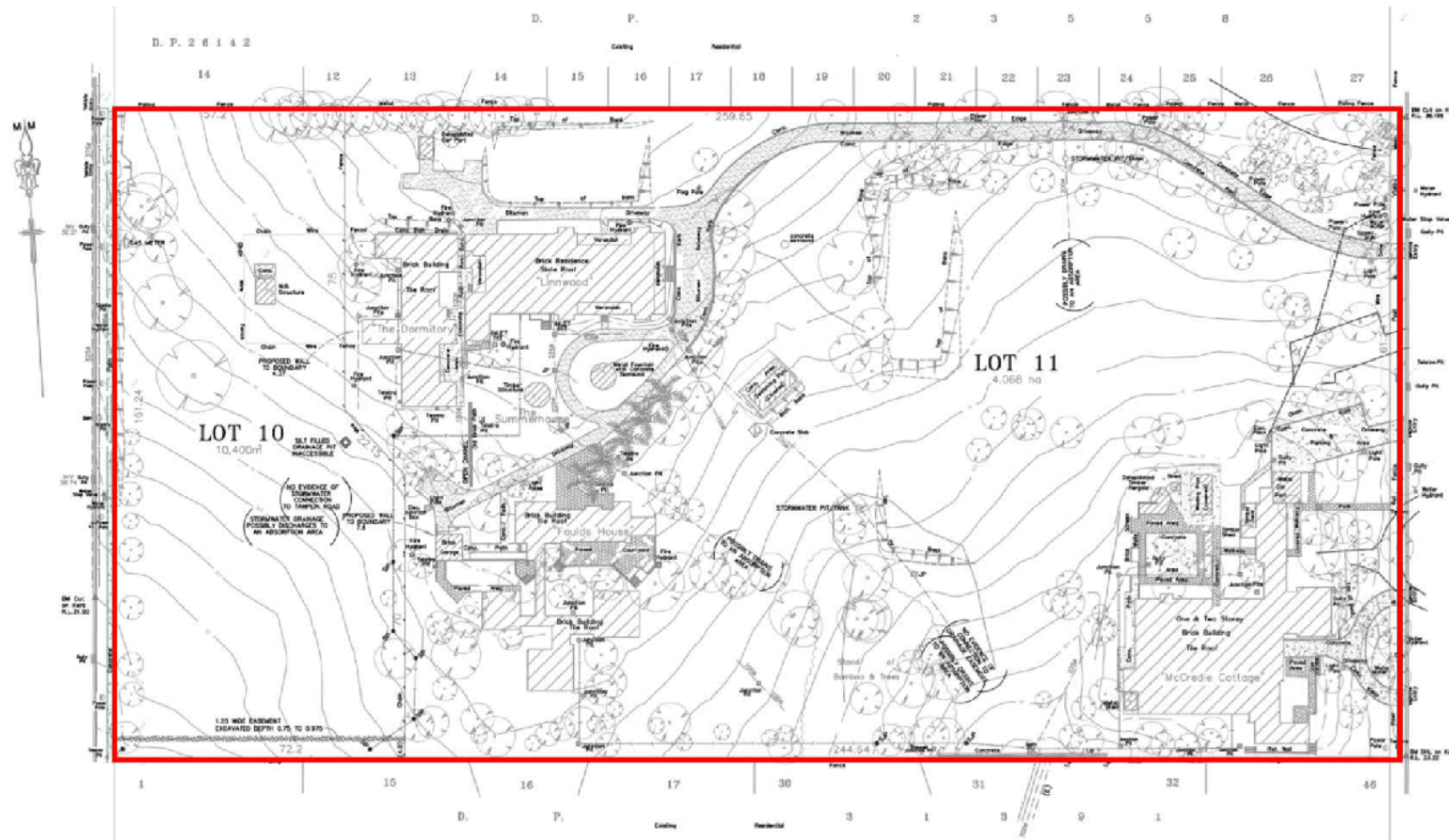
Linnwood Estate is located in the suburb of Guildford in Sydney's west, in Greystanes Ward within the Cumberland City Council local government area. The site comprises approximately 11.5 acres of land and has two street frontages, with Byron Road as the main frontage to the east and Tamplin Road to the west. The north and south boundaries of the property adjoin residential development. The site occupies Lot 1 of DP 169485 and DP 183017. As identified in Figure 6, two Crown reserves were created over the site in 2011 for the respective composite lots.

As illustrated in Figure 7 and Figure 8, the site is occupied by three complexes of buildings: McCredie Cottage in the south-east corner, Linnwood House and its Dormitory extensions on the northern boundary, and Faulds House to the south of Linnwood House. Other built structures and features on site include a 1920s laundry to the west of Linnwood House, and the original Summer House in the gardens to the south of Linnwood House.

Linnwood house and Faulds House are accessible via the main drive to the property, which runs along the north boundary from the front gate at Byron Road. There is limited parking to the north of Linnwood House and on the turning loop near Faulds House. The landscape of the site is punctuated with native vegetation, as identified in Figure 9.



Figure 7: Linnwood site plan showing State Heritage Register curtilage, outlined in red



Source: City Plan Heritage, Linnwood 2019 CMP, base plan prepared by Vince Morgan (Surveyor).



## Current condition and significance of the site

City Plan Heritage conducted an assessment of the condition of various elements of Linnwood in the 2019 CMP, with reference to fabric survey and assessments undertaken in 2004 and updated in 2019. Each item was assigned a condition rating of good, fair or poor. The tables below have been reproduced from the Fabric Survey and Assessment found in Volume 2 of the updated 2019 CMP.

*Table 3: Condition ranking of the site*

CONDITION RANKING	DEFINITION
<b>Good</b>	Element exhibits superficial wear and tear, minor defects, minor signs of deterioration to surface finishes, but does not require major maintenance. No major defects exist.
<b>Fair</b>	Element is in average condition. Deteriorated surfaces require attention. Services are functional but require attention. Deferred maintenance work exists.
<b>Poor</b>	Element has deteriorated badly. Serious structural problems exist. General appearance is poor with eroded protective coatings. Elements are defective, services are frequently failing, significant number of major defects exist.

Source: City Plan Heritage 2019, Conservation Management Plan Volume 1

*Table 4: Heritage significance ranking*

RANKING	DEFINITION	STATUS	TREATMENT
<b>Exceptional</b>	Rare or outstanding element directly contributing to an item's local and State significance.	Fulfils criteria for local or State listing.	Should be preserved or restored.
<b>High</b>	High degree of original fabric. Demonstrates a key element of the item's significance. Alterations do not detract from significance.	Fulfils criteria for local or State listing.	Should be preserved, restored or reconstructed. Adaptation is allowed only if the works will pose no detrimental impact upon the cultural significance of the place. This fabric should not be removed or demolished. Sympathetic adaptive works should be accompanied by an archival recording.
<b>Moderate</b>	Altered or modified elements. Elements with little heritage value, but which contribute to the overall significance of the item.	Fulfils criteria for local or State listing.	Should preferably be retained in situ but there is greater opportunity for adaptation. The removal of this fabric is allowable only if there is no detrimental impact on the significance of the place. Any alterations should be accompanied by an archival recording. Work to this fabric should always have regard for the cultural significance of the place and the potential impact upon significant fabric and its setting.

RANKING	DEFINITION	STATUS	TREATMENT
<b>Little</b>	Alterations detract from significance. Difficult to interpret.	Does not fulfil criteria for local or State listing.	May be retained, adapted or removed, as necessary or desired. Works to this fabric must not impact upon elements of fabric graded as Exceptional and High and must not detract from the overall cultural significance of the place.
<b>Intrusive</b>	Damaging to the item's heritage significance.	Does not fulfil criteria for local or State listing.	Should be removed or adapted in order to enhance the cultural significance of the place.

Source: City Plan Heritage 2019, Conservation Management Plan Volume 1

Table 5: Table of significant elements on the site

ITEM	SIGNIFICANCE	CONDITION	DESCRIPTION
<b>Linnwood (house)</b>	Exceptional	Good	Original single-storey dwelling c.1871 with later extensions and basement level.
<b>McCredie Cottage</b>	Little	Poor	One and two storey brick building opened in 1970.
<b>McCredie Cottage landscaping</b>	Moderate - Intrusive	Poor	Associated landscaping contains elements key to interpretation of original style and intrusive elements detrimental to condition.
<b>Faulds House</b>	Little	Good	Faulds House built 1976 is currently being maintained and actively utilised by Sunnyfield Services.
<b>Faulds House landscaping</b>	Moderate - Intrusive	Fair	Associated landscaping contains elements key to interpretation of original style and intrusive elements detrimental to condition.
<b>Dormitory</b>	High	Good to Fair	The Dormitory built in 1923 retains an overall high significance due to its history and use. It has undergone repairs and change in the 1990s including partition walls and bathroom renovations which are of little significance. It is afflicted by structural issues in southern wall.
<b>Laundry</b>	High	Poor	Constructed from the Dormitory phase of development 1923, the Laundry is in a state of disrepair, currently fenced off for safety/security concerns.
<b>Summerhouse</b>	Exceptional	Poor	c.1871 Summerhouse from McCredie phase of development, currently in a dilapidated state and closed off for safety/security concerns.
<b>Fountain</b>	Exceptional	Good	c.1871 Original fountain from McCredie stage of development has been repaired and undergone landscaping works in 2011.

ITEM	SIGNIFICANCE	CONDITION	DESCRIPTION
<b>Swimming Pool</b>	Little	Fair	Constructed at the time of the McCredie Cottage development in 1970, currently covered for safety purposes.
<b>Curtilage</b>	Exceptional	Good	Including the wider landscape setting of the Linnwood Estate.
<b>Open space between Byron Road &amp; house</b>	High	Good	Retains much of its original open space, areas of archaeological potential exist.
<b>Open space between Tamplin Road &amp; house</b>	Exceptional, High, Moderate	Fair	Open space existing, west of Linnwood House and east of Tamplin Road.
<b>South garden</b>	High - Intrusive	Fair	Some original elements remain of original garden south of Linnwood House, potential for restoration.
<b>Circular garden on raised bed</b>	High	Fair	Likely from Lynwood Hall phase of development, area appears to have been subject to additional landscape works and plantings since 2002.
<b>Former Tennis Court</b>	High	Poor	Potential archaeological remains of former tennis court from McCredie phase of construction. Area currently grassed over.
<b>Entrance drive</b>	Exceptional	Good	The entrance drive still in active use.
<b>Timber front entry gateposts</b>	Exceptional	Fair	Original timber gateposts with cast iron finials from McCredie phase remain in situ.
<b>Front gates</b>	Little	Fair	Present along Byron Road side of estate, connecting front fence to original timber gateposts.
<b>Front Fence</b>	Little	Poor	Present along Byron Road side of estate.

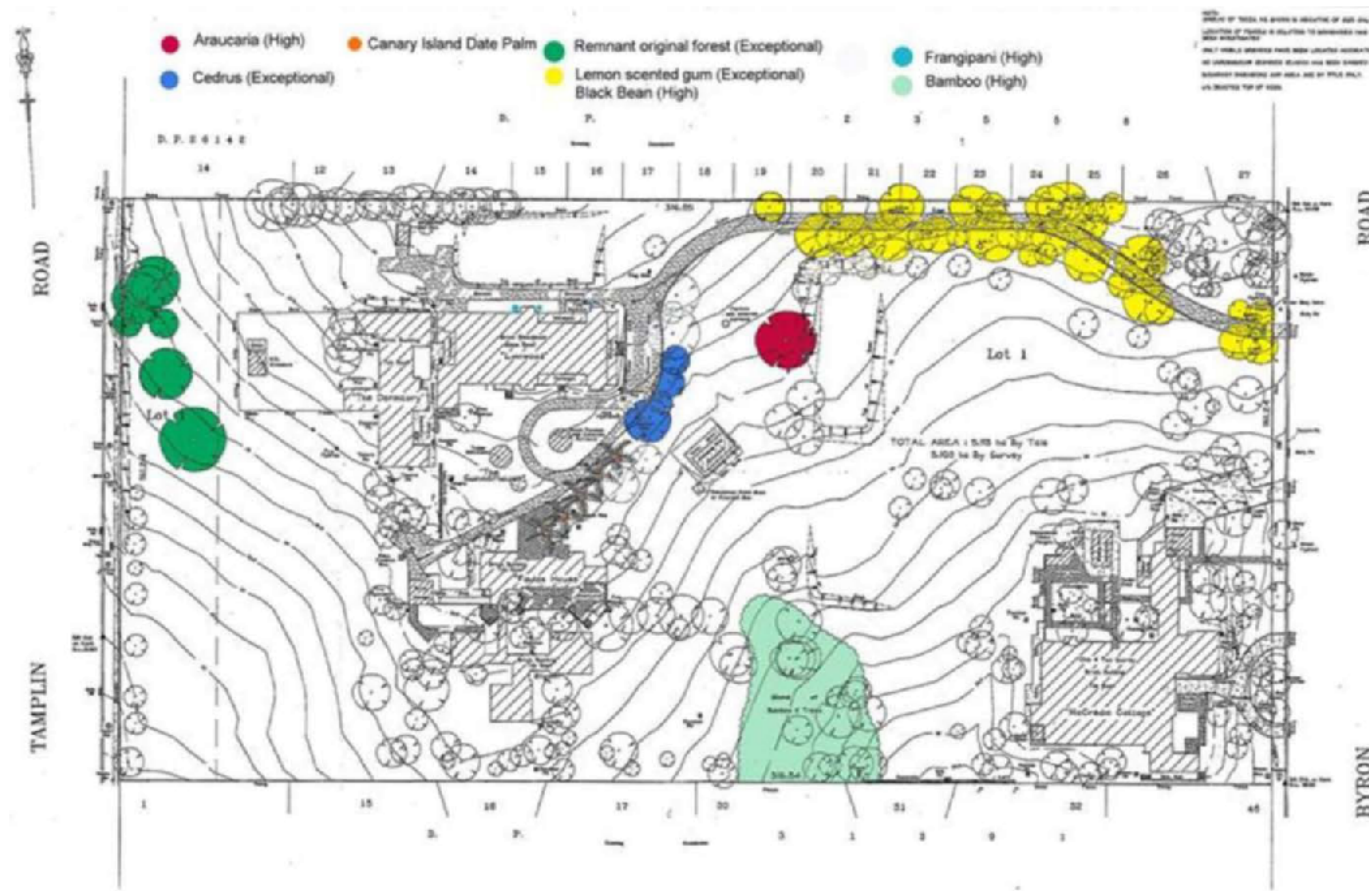
*Source: City Plan Heritage 2019, Conservation Management Plan Volume 1*

The map displays two adjacent lots, Lot 10 (10.400 ha) and Lot 11 (4.068 ha). Lot 10 contains several buildings, including 'The Dormitory' (yellow), 'The Summerhouse' (red), 'The Garage' (blue), and 'McCreddie Cottage' (blue). A legend indicates color-coded areas: Exceptional (red), High (orange), Moderate (yellow), Little (blue), Intrusive (grey), and Neutral (green). The map also shows roads, paths, and surrounding vegetation.

Source: City Plan Heritage 2019, Linnwood Estate CMP Volume 1. Base plan prepared by Vince Morgan (Surveyor).



Figure 9: Level of significance of the vegetation on the property as assessed in the 2004 Landscape Report by Musecape Pty Ltd



Source: City Plan Heritage 2019, Linnwood Estate CMP Volume 1. Base plan prepared by Vince Morgan (Surveyor).

## Surrounding infrastructure and facilities

The general character of the area surrounding Linnwood Estate is residential, bordering industrial with some recreational use. The Estate shares its northern and southern boundaries with residential housing, with Tamplin Road running along the west and Byron Road running along the east. Guildford Leagues Club operates across Tamplin Road, including its associated playing field, swimming centre and parking.

The surrounding area is characterised by residential housing, primary schools, proximity to public transport, and industry. Neighbouring northern and southern residential lots are generous relative to blocks further north and further east, and are typically terraces or 1950s style country houses, commonly with integrated terraces and upstairs living. The suburban blocks to the north and south of the site result in an impermeable block and sub-optimal footpath environment for those traversing between Guildford Station and Guildford Leagues Club. This presents an opportunity for the site to provide an east-west pedestrian open space link.

The high proportion of family households with children is reflected in the educational offerings in the area, including three primary schools within a 15 minute walk from the site. To the south of McCredie Park is the Yennora Distribution Centre, which is a 70 hectare site and one of the largest distribution centres of its kind in the southern hemisphere.

## Current land use and financial performance

The Sunnyfield Community Services Hub currently occupies the Dormitory and Faulds House under a licence agreement with the Linnwood Estate Reserve Trust. The licence grants Sunnyfield the non-exclusive right to use and occupy buildings on Lot 1 of DP 169485 for the provision of services to people with an intellectual disability, and generally to provide vocation services, day programs, development and advocacy and aged care to, and in respect of, people with a disability. The licence has a term of two years, and terminates on 30 April 2021. The annual licence fee is \$41,600 plus GST. The licence is 'non-exclusive' to the extent that Council may enter and view Sunnyfield's activities upon giving Sunnyfield reasonable notice. In practice, this means that the entry gate on Byron Road is locked and the site is not publicly accessible on weekdays during Sunnyfield's hours of operation. This security arrangement is necessary from a community and Sunnyfield client safety perspective. However, it also limits the public enjoyment of the site.

Other uses of Linnwood Estate include vintage car meet-ups, annual meetings of the Australian Lace Guild, and open days of the House supervised by the Friends of Linnwood. The Friends of Linnwood also periodically gather at Linnwood House for public meetings, and organise group tours and Devonshire Tea at Linnwood House.

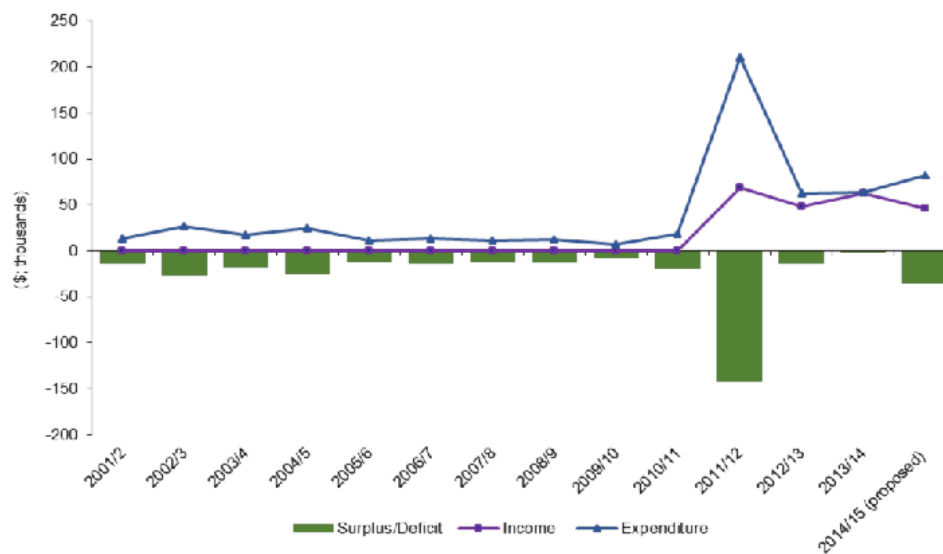
The Site's heritage status<sup>2</sup> as well as the conservation and management plans are associated with a significant number of policies and provisions which present constraints on the use of the site. As a result, Council has faced a significant and persistent financial operating deficit (when expenditure is greater than income) over recent years (Figure 10). For example, in 2011/12, the deficit associated with maintaining the property was close to \$120,000 when substantial maintenance was funded.

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<sup>2</sup> In addition to the heritage status of individual buildings and structures on the Site.



Figure 10: Financial flows associated with Linnwood Estate



Source: Information provided by Cumberland Council.

# Consultation overview

## Engagement activities

Stakeholder interests and expectations were assessed for the purposes of drafting the 2019 CMP. The outcome of these stakeholder engagement activities is summarised in the key principle that

*'Linnwood should be conserved and any future uses must be consistent with its significance and guided by a Conservation Management Plan. In addition, the place must be financially viable in the future whilst maximising community access and use.'*<sup>3</sup>

Further consultation was undertaken with a select number of stakeholders that are directly associated with Linnwood Estate for the purposes of developing this Business Plan. The purpose of consultation was to understand the perceptions of these stakeholders regarding the current and future uses of the site and any changes to the grounds and/or buildings that may be required. Stakeholder responses and recommendations were taken into consideration in the options development and assessment processes.

The following sections identify the objective of engaging with each identified stakeholder, and a summary of the findings of each consultation.

### Sunnyfield

The objective of consultation with Sunnyfield was to understand Sunnyfield's current licencing arrangement and desire to continue operating onsite.

Representatives of Sunnyfield noted that they are (i) keen to remain a tenant on Site in part to limit any potential disruption to current clients and their families; and (ii) grow and expand their service offering more broadly across the State and at Linnwood.

Sunnyfield indicated that they are very keen to see the site activated, in part to provide a greater level of security for clients and employees and to ensure that clients have the opportunity to interact (under supervision) with the wider community.

Sunnyfield also expressed a number of issues related to Faulds House and the Dormitory that were a current source of frustration including recent upgrades that have been required by Sunnyfield, despite not owning the asset, and the limitations of the current floor plan and structure of the buildings for the provision of disability services.

### Friends of Linnwood

The objective of consultation with the Friends of Linnwood was to understand the perspectives of Friends of Linnwood regarding the requirements to maintain the cultural heritage of the site.

Representatives of the Friends of Linnwood noted that they have developed a Facebook group of community members that were previously located or directly associated with the site, including former students. Dorothy Warwick, on behalf of the Friends of Linnwood, commented that:

- The rejuvenation and adaptive reuse of McCredie Cottage for community purposes is preferable to demolition, as the size and structure of the building is already suitable for this use;

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<sup>3</sup> City Plan Heritage (2019) *Linnwood Conservation Management Plan*, September.

- The lack of amenities (bathrooms and commercial kitchen facilities) make it difficult to cater for large groups using Linnwood House or the grounds; and
- Removal of Faulds House has the potential to improve the visual landscape of the grounds, and currently aesthetically impacts the site.

### Guildford Leagues Club

The objective of consultation with the Guildford Leagues Club was to understand potential synergies and interest with Linnwood Estate.

The Club understands that there will be potential benefits and costs (for the Club) associated with the development of Linnwood Estate. A key risk identified by the Club is that a new residential presence may conflict with the current operations of the Club. This may occur for example by new residents complaining about the noise generated by Club patrons leaving early in the morning. This risk is viewed by the Club as having the potential to alter its hours of operation.

The Club put forward a number of suggestions for the use of the segment of the site that runs parallel to Tamplin Road including:

- Additional car parking to accommodate the expected growth in Club patronage and sporting events and programs;
- A sporting facility such as a netball centre subject to consultation with relevant NSW netball bodies to confirm viability;
- Child care facility and suite of professional services to serve the local community; and
- Residential properties with suitable provisions to avoid conflict with the operation of the Club i.e. glazed windows etc.

### Heritage Council of NSW

The draft Linnwood Conservation Management Plan was submitted to the Heritage Council of NSW for review in 2019. In February 2020, a meeting was held with Heritage Council and Council where the draft Business Plan and short-listed options were presented.

The results of this meeting included:

- agreement with the general planning and the concept of zoning into Zones A, B, C, D, E and F;
- the limitation of development into Zone D, with these options precluded from the final options.

The CMP has not been endorsed at the time of developing this business plan, but has since been conditionally endorsed as of July 2020.

# Linnwood Conservation Management Plan

A conservation management plan is an important guide for the future care, use and development of a heritage site. As a site in public ownership, the CMP balances the conservation of the site with the need to maximise access whilst having regard for the financial constraints and opportunities of the site. <sup>4</sup> City Plan Heritage was engaged by Cumberland Council to revise Linnwood's 2004 CMP.

The CMP aims to provide policies, guidelines and recommendations that will provide for the ongoing conservation and management of the cultural significance of Linnwood and its setting. In particular, the CMP includes:

- historical, physical and archaeological evidence of the site's heritage significance;
- an assessment of the heritage significance of items on the site;
- constraints and opportunities arising from significance;
- recommendations for the ongoing management of the site; and
- conservation policies to guide future use of the site.

## **Endorsement of 2019 CMP**

Conservation management plans must be reviewed and endorsed by the Heritage Council to provide for strategic approaches to the long term management of heritage items that are agreed upon by both the Heritage Council and owners and managers of heritage items. Once endorsed, it is agreed that a conservation management plan provides a guiding document for the Heritage Council in its consideration of any proposals for change to or involving the item subject to the conservation management plan for the period of the endorsement.

The March 2019 version of the CMP, prepared by City Plan Heritage, was assessed by the Heritage Council in July 2019. Major amendments were required before it could be recommended for endorsement. City Plan Heritage responded to the Heritage Council's comments in the September 2019 version of the CMP, which underwent the second stage of assessment in 2019.

## **Amendments to the March version of the 2019 CMP**

A summary of material amendments reflected in the September version of the 2019 CMP is below:

- Views and vistas – the CMP was updated to expand on the significant views to and from Linnwood House, and views in open space.
- History – the updated CMP expands on the cultural and social significance of the site, including details about the site's connection with Aboriginal children of the Stolen Generation, some of whom were forcibly removed from their families and eventually sent to Linnwood Estate.
- Archaeology – not addressed in Stage 1 response, see 2B.6.
- Constraints and opportunities – this section was amended to reframe financial viability as a constraint to conservation works, in addition to identifying the constraints and opportunities

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<sup>4</sup> City Plan Heritage (2019) *Linnwood Conservation Management Plan*, September.

arising from the site's assessed significance and the physical condition of various components of the property.

- Conservation policies – the policies were restructured and reorganised, and policies relating to the demolition of the Laundry were amended to align with the Heritage Act.

Subsequent to the development of this business plan, the CMP was conditionally endorsed July 2020.

# Identification of options

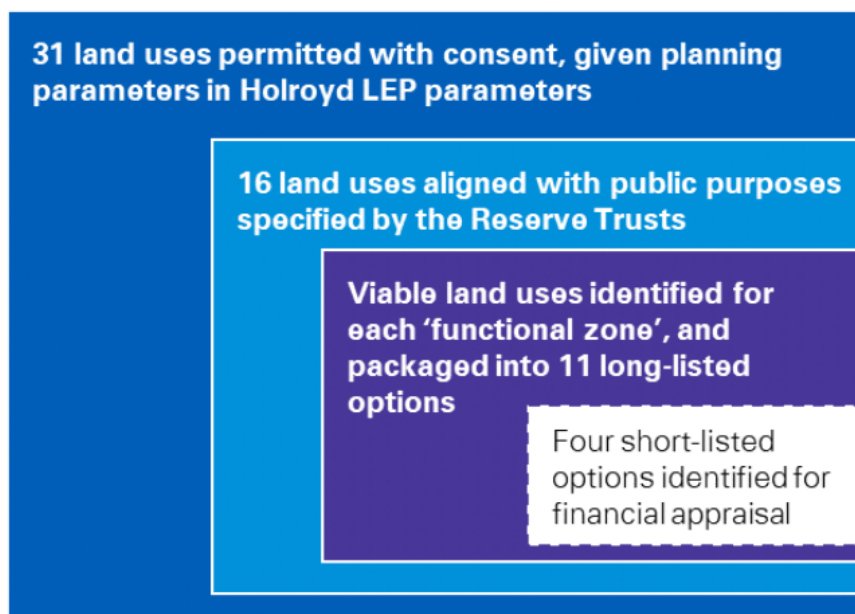
## Options identification approach

An options identification framework was applied to identify and evaluate the wide range of land use options for the Linnwood Estate site. The objectives of this approach are to ensure that the short-listed options considered financial appraisal:

- are permissible given the zoning parameters and additional permitted uses identified in the Holyroyd LEP 2013;
- are considered to be applicable and, from a high level, viable given the nature of the property, the CMP, the requirements of Council as Trust Manager, and the state of the current market/location;
- have considered the site constraints, including Linnwood House, Faulds House, McCredie Cottage, the Dormitory and Tamplin Road Reserve; and
- have been considered in terms of strategic merit, community amenity delivered, and deliverability using the multi-criteria analysis framework (see Section 8).

This filtering of options is illustrated in Figure 11.

*Figure 11: Options identification process*





## Step 1: Identify land uses within planning parameters in the Holroyd LEP

In order to identify the potential options for the site, a list of options has been developed based on what is considered to be legally permissible under the Holroyd Local Environmental Plan 2013 (Holroyd LEP).

The Holroyd LEP specifies that the subject site land is zoned R2 – Low Density Residential, and R3 – Medium Density Residential, as shown in Figure 12. Additional permitted uses with development consent are also specified in Schedule 1 of the Holroyd LEP in the part of the site zoned R2. The subject site is outlined by the yellow dashed line.

Figure 12: Land zoning map for Lot 1 / DP 169485 and Lot 1 / 183017



Source: NSW Planning Portal

The Holroyd LEP identifies the objectives under each of these land use zones which informs the potential uses that may be suitable on the site. The objectives of each zone are as follows:

OBJECTIVES OF R2	OBJECTIVES OF R3
<ul style="list-style-type: none"> <li>To provide for the housing needs of the community within a low density residential environment.</li> <li>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> <li>To allow residents to carry out a range of activities from their homes while maintaining neighbourhood amenity.</li> </ul>	<ul style="list-style-type: none"> <li>To provide for the housing needs of the community within a medium density residential environment.</li> <li>To provide a variety of housing types within a medium density residential environment.</li> <li>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> </ul>

The Holroyd LEP states the permissible land uses under each of the zones, and identifies additional permitted uses for the part of site zoned R2. Each of these land uses are defined in the Holroyd LEP.

The table below shows an exhaustive list of the land uses permitted by Holroyd LEP in the areas of the site zoned R2 and R3.

LAND USE OPTIONS	PERMISSIBLE IN R2	PERMISSIBLE IN R3	PERMISSIBLE IN ARU4
Attached dwellings	✗	✓	-
Bed and breakfast accommodation	✓	✓	-
Boarding houses	✓	✓	-
Building identification signs	✓	✓	-
Business identification signs	✓	✓	-
Centre-based child care facilities	✓	✓	-
Community facilities	✓	✓	-
Dual occupancies	✓	✓	-
Dwelling houses	✓	✓	-
Environmental protection works	✓	✓	-
Exhibition homes	✓	✓	-
Exhibition villages	✓	✓	-
Food and drink premises	✗	✗	✓
Group homes	✓	✓	-
Health consulting rooms	✓	✗	-
Home businesses	✓	✓	-
Home industries	✓	✓	-
Hostels	✓	✓	-
Information and education facility	✗	✗	✓
Multi-dwelling housing	✗	✓	-
Neighbourhood shops	✗	✓	-
Office premises	✗	✗	✓
Oyster aquaculture	✓	✓	-
Places of public worship	✓	✓	-
Pond-based aquaculture	✓	✗	-
Recreation areas	✓	✓	-
Respite day care centres	✓	✓	-
Roads	✓	✓	-
Semi-detached dwellings	✓	✓	-
Seniors housing	✗	✓	-
Tank-based aquaculture	✓	✗	-

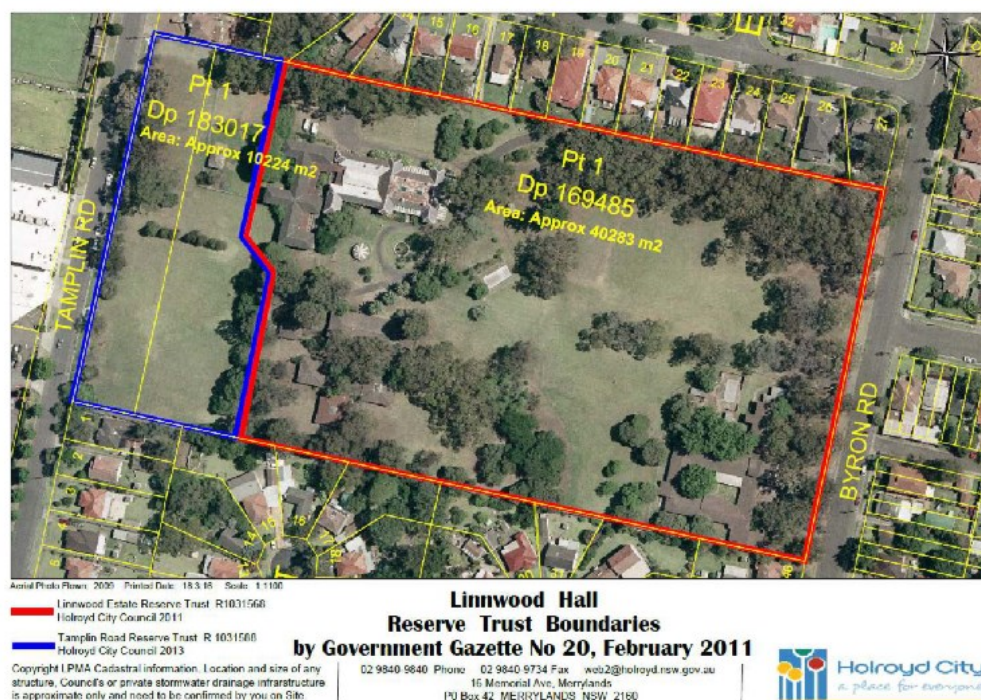
## Step 2: Identify land uses permissible by Reserve Trust requirements

An additional constraint on the use of Site is that the site is currently Crown Land reserved for specified public purposes. Two Crown Reserves have been formed over the Linwood Estate:

- The Linnwood Estate Reserve Trust (R1031568) which contains all buildings and heritage curtilage, and
- The Tamplin Road Reserve Trust (R1031588) which covers the open space fronting Tamplin Road.

Cumberland Council is the Trust Manager for both Reserve Trusts. The zoning boundaries directly align with the boundaries of the Crown Reserves: the area reserved by the Linnwood Estate Reserve Trust is zoned R2; and the area reserved by the Tamplin Road Reserve Trust is zoned R3. The table below identifies the public purposes within the scope of Reserve Trusts.

Figure 13: Boundaries of the Linnwood Estate Reserve Trust and the Tamplin Road Reserve Trust



Source: Cumberland Council

PUBLIC PURPOSE	PUBLIC PURPOSE OF THE LINNWOOD ESTATE RESERVE TRUST? (R2)	PUBLIC PURPOSE OF THE TAMPLIN ROAD RESERVE TRUST? (R3)
Public Recreation	✓	✓
Community	✓	✓
Heritage	✓	✗
Government	✓	✗
Community and Sporting Club Facilities	✗	✓

The specified purposes of the Reserve Trusts limit the purposes for which Council is permitted to manage the affairs of the trusts. Table 6 identifies whether and how each land use could potentially align with a public purpose. For ease of reference, the permissible land uses have been grouped into six themes: accommodation, health, residential, community, commercial and recreation.

It is unlikely that all the land uses permissible by the Holroyd LEP can be justified by the public purposes of the Reserve Trusts. For example, it is unlikely that Council could use its powers as Trust Manager to approve of accommodation uses or commercial land uses other than for food and drink premises or government office premises.

It is worth noting that some land uses can be reimagined to promote a particular public purpose. For instance, the development of semi-attached dwellings on Tamplin Road Reserve may only be permissible under the requirements of the Reserve Trust if it serves a community-related public purposes such as affordable housing or disability housing. Conversely, the development of non-affordable housing may fall outside the scope of the Council's powers as Trust Manager of the Reserve Trusts. Similarly, office premises are permitted on the portion of the site zoned R2, however, the establishment of these office premises must be for a specified purpose, such as a government or community purpose.

Table 6: Land uses aligned with public purposes specified by the Reserve Trusts

Land use themes	Land use options	Permissible in R2	Possible public purpose for LERT	Permissible in R3	Possible public purpose for TRRT
Accommodation	• Bed and breakfast accommodation	✓	✗	✓	✗
	• Boarding houses	✓	✗	✓	✗
	• Hostels	✓	✗	✓	✗
Health	• Health consulting rooms	✓	Community	✗	n/a
	• Respite day care centres	✓	Community	✓	Community
	• Seniors housing	✗	n/a	✓	Community
Residential	• Attached dwellings	✗	n/a	✓	Community*
	• Dual occupancies	✓	Community*	✓	Community*
	• Dwelling houses	✓	Community*	✓	Community*
	• Group homes	✓	Community*	✓	Community*
	• Multi dwelling housing	✗	n/a	✓	Community*
	• Semi-detached dwellings	✓	Community*	✓	Community*
Community	• Centre-based child care facilities	✓	Community	✓	Community
	• Community facilities	✓	Community	✓	Community
	• Information and educational facility	✓	Community / Heritage	✗	n/a
	• Places of public worship	✓	Community	✓	Community
Commercial	• Food and drink premises	✓	Community	✗	n/a
	• Home businesses	✓	✗	✓	✗
	• Home industries	✓	✗	✓	✗
	• Neighbourhood shops	✗	n/a	✓	✗
	• Office premises	✓	Community/Government	✗	n/a
Recreation	• Recreation areas	✓	Community / Public Recreation	✓	Community / Public Recreation / Community and Sporting Club Facilities

n/a = not applicable, because use is not permitted by zoning

\* = conditional upon the residential uses being for a public purpose, such as affordable housing



### Step 3: Identify land uses given site and building constraints

This step involves identifying how the land uses permitted by the Holroyd LEP and requirements of the Reserve Trust could be imagined in the context of the existing buildings and site layout.

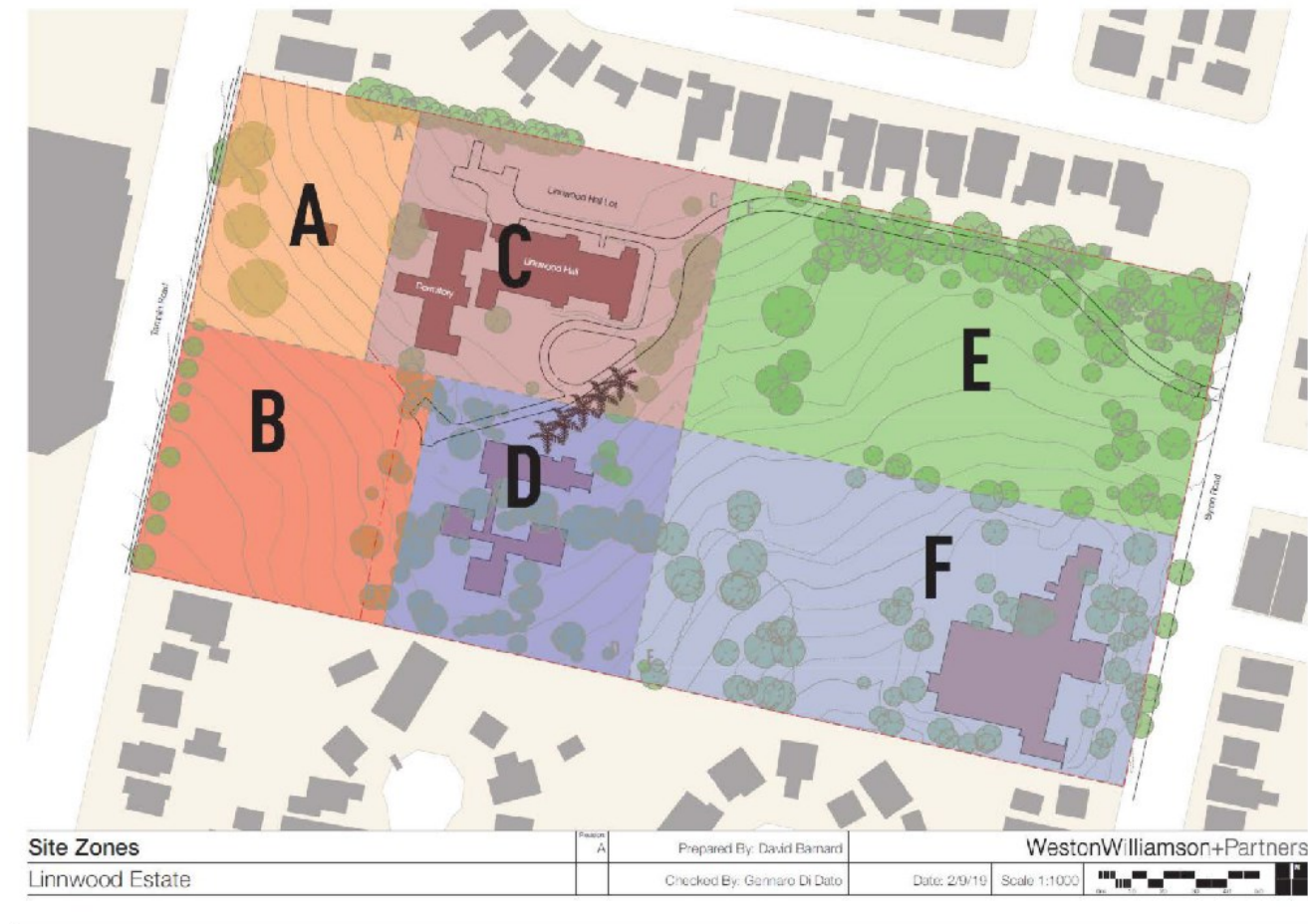
- Nine universal principles apply across all options. These are detailed in Figure 14, and illustrated in Figure 14 below.
- For the purposes of options development, the site was divided into six 'functional zones', as shown in Figure 15. Each functional zone has the potential to be used in multiple ways, in accordance with the land use controls identified in Steps 1 and 2 of the options identification approach.
- Table 7 describes the existing features and future land uses for each functional zone.

*Figure 14: Universal principles applied to the option and master plan development process*

Principle	Application
1 Protect key heritage landscape	<ul style="list-style-type: none"> <li>• All options preserve the original open space landscape between Linnwood House and Byron Road.</li> </ul>
2 Protect curtilage and views from neighbourhood	<ul style="list-style-type: none"> <li>• All options respect the views of Linnwood House from Tamplin Road and Byron Road, encouraging passive community enjoyment of the House's heritage value.</li> </ul>
3 Protect curtilage and views from Linnwood House	<ul style="list-style-type: none"> <li>• All options respect the original views from the eastern porch of Linnwood House over the open space and former gardens.</li> </ul>
4 Protect existing trees	<ul style="list-style-type: none"> <li>• All options respect the Site's biodiversity significance, minimising impacts on existing vegetation where practical.</li> </ul>
5 Activate site edges and improve passive surveillance	<ul style="list-style-type: none"> <li>• All options promote passive visual engagement between users of the passive open space / Linnwood House and residents of development along the southern boundary.</li> </ul>
6 Encourage public access and community open space	<ul style="list-style-type: none"> <li>• All options retain the open space to the east and west of Linnwood House, enable public access, and provide opportunities for passive and recreational use of the open space.</li> </ul>



Figure 15: Map of functional zones for options identification



*Table 7: Function zone description and land uses*

FUNCTIONAL ZONE	CURRENT FEATURES	FUTURE LAND USES	DESCRIPTION OF LAND USE	LEP / RESERVE TRUST REQUIREMENT
<b>Functional Zone A</b>	<p>Zone A encompasses the north-western corner of the site. It is part of the area reserved by the Tamplin Road Reserve Trust, and is zoned R3.</p> <p>Main features of the zone include six remnant native lemon scented gum trees, the Laundry, and open space between Tamplin Road and Linnwood House.</p>	<b>A1:</b> Passive open space	A1 involves minimal intervention, except for possible embellishment to ensure fitness for public use as passive open space and parking in the north-western corner of the site.	<p>R3 (recreation areas)</p> <p>TRRT (public recreation/ community purpose)</p>
<b>Functional Zone B</b>	<p>Zone B encompasses the south-western corner of the site. It is part of the area reserved by the Tamplin Road Reserve Trust, and is zoned R3.</p> <p>Main features of the zone include open space between Tamplin Road and Faulds House.</p>	<b>B1:</b> Passive open space	B1 involves minimal intervention, except for possible embellishment to ensure fitness for public use as passive open space.	<p>R3 (recreation areas)</p> <p>TRRT (public recreation/ community purpose)</p>
		<b>B2:</b> Low intensity housing development	B2 involves development of the vacant area into heritage-appropriate, low intensity housing within the existing R2 zoning parameters.	<p>R3 (attached dwellings, dual occupancies, multi-dwelling housing, semi-attached dwellings)</p> <p>TRRT (community purpose)</p>
		<b>B3:</b> Moderate intensity housing development	B3 involves development of medium intensity housing. Development would be along the western site boundary, with each of the dwellings overlooking the northern section of Tamplin Road Reserve.	<p>R3 (attached dwellings, dual occupancies, multi-dwelling housing, semi-attached dwellings)</p> <p>TRRT (community purpose)</p>
		<b>B4:</b> Higher intensity housing development	B4 involves development of higher intensity housing development. Development would be along the western site boundary, with the	<p>R3 (respite day care, seniors housing)</p> <p>TRRT (community purpose)</p>

FUNCTIONAL ZONE	CURRENT FEATURES	FUTURE LAND USES	DESCRIPTION OF LAND USE	LEP / RESERVE TRUST REQUIREMENT
			complex overlooking the northern section of Tamplin Road Reserve.	
<b>Functional Zone C</b>	<p>Zone C encompasses the mid-northern area of the site. It is part of the area reserved by the Linnwood Estate Reserve Trust, and is zoned R2.</p> <p>Main features of the zone include Linnwood House, the Dormitory, summerhouse, and fountain.</p>	<b>C1:</b> Adaptive community reuse of Linnwood House and the Dormitory	<p>C1 involves minimal intervention with the existing structures of Linnwood House and the Dormitory, except for possible refurbishment to ensure fitness for community use (e.g. installation of additional bathrooms, installation of commercial kitchen).</p> <p>Linnwood House would be used as an event space and/or office premises related to the community use of the Linnwood Estate. Upon the expiration of the Sunnyfield licence, the Dormitory would be used for a community purpose.</p>	<p>R2 (community facilities)</p> <p>APU4 (information and education facilities, office premises, food and drink premises)</p> <p>LERT (community, heritage, or government purpose)</p>
<b>Functional Zone D</b>	<p>Zone D encompasses the mid-southern area of the site. It is part of the area reserved by the Linnwood Estate Reserve Trust, and is zoned R2.</p> <p>Main features of the zone include Faulds House and its surrounding landscaping.</p>	<b>D1:</b> Retention of Faulds House, and adaptive community reuse	D1 involves the adaptive reuse of Faulds House upon the expiration of the Sunnyfield licence for a community purpose.	<p>R2 (community facilities)</p> <p>LERT (community purpose)</p>
		<b>D2:</b> Demolition of Faulds House	D2 involves the demolition of Faulds House to regain the visual setting of the southern elevation and grounds of Linnwood House and would constitute a conservation exercise.	<p>R2 (recreation areas)</p> <p>LERT (public recreation, heritage purpose)</p>
		<b>D3:</b> Extend development in zone B onto Faulds House area	D3 involves extending the development in Zone B (future land use B2, B3 or B4) into Zone D.	<p>R2 (community facilities)</p> <p>LERT (community purpose)</p>

FUNCTIONAL ZONE	CURRENT FEATURES	FUTURE LAND USES	DESCRIPTION OF LAND USE	LEP / RESERVE TRUST REQUIREMENT
<b>Functional Zone E</b>	<p>Zone E encompasses the north-eastern corner of the site. It is part of the area reserved by the Linnwood Estate Reserve Trust, and is zoned R2.</p> <p>Main features of the zone include local eucalypt woodland known as Cumberland, the swimming pool, the main entrance driveway from Byron Road to Linnwood House, and open space between Byron Road and Linnwood House.</p>	<b>E1:</b> Passive open space	E1 involves minimal intervention, except for possible embellishment to ensure fitness for public use as passive open space.	<p>R2 (recreation areas)</p> <p>LERT (public recreation purpose)</p>
<b>Functional Zone F</b>	<p>Zone F encompasses the south-eastern corner of the site. It is part of the area reserved by the Linnwood Estate Reserve Trust, and is zoned R2.</p> <p>Main features of the zone include McCredie Cottage and its surrounding landscaping, and local eucalypt woodland known as Cumberland.</p>	<b>F1:</b> Restoration of McCredie Cottage, and adaptive community reuse (e.g. child care, respite care)	F1 involves the restoration of McCredie Cottage, including possible alternations and additions as permitted by the CMP. The restored building could be used for X.	<p>R2 (community facilities, centre-based child care facilities, respite day care)</p> <p>LERT (community purpose)</p>
		<b>F2:</b> Demolition of McCredie Cottage, and medium intensity housing development	F2 involves the demolition of McCredie Cottage and development of the vacated site into heritage-appropriate, medium intensity terraced housing within the existing R2 zoning parameters.	<p>R2 (dual occupancies, semi-detached dwellings)</p> <p>LERT (community)</p>
		<b>F3:</b> Development along Byron Road	F3 involves the development of a community-use building south of the main gate along Byron Road. This provides an opportunity for Sunnyfield to relocate its services.	<p>R2 (community facilities, centre-based child care facilities, respite day care)</p> <p>LERT (community purpose)</p>

## Step 4: Package land uses into options

Table 8: Packaging land uses into short-listed options

ZONE	FUTURE LAND USES	OPTIONS											
		BASE CASE	OPTION 1A	OPTION 1B	OPTION 2A	OPTION 2B	OPTION 3A	OPTION 3B	OPTION 4A	OPTION 4B	OPTION 5A	OPTION 5B	OPTION 6
A	<b>A1:</b> Passive open space (includes possible parking area)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	<b>B1:</b> Passive open space	✓											
	<b>B2:</b> Low intensity housing development (5 lots)		✓	✓									
	<b>B3:</b> Moderate intensity terrace housing development (10 lots)				✓	✓			✓	✓	✓	✓	
B	<b>B4:</b> Higher intensity housing development						✓	✓					✓
	<b>C1:</b> Adaptive community reuse of	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

ZONE	FUTURE LAND USES	OPTIONS											
		BASE CASE	OPTION 1A	OPTION 1B	OPTION 2A	OPTION 2B	OPTION 3A	OPTION 3B	OPTION 4A	OPTION 4B	OPTION 5A	OPTION 5B	OPTION 6
	Linnwood House and the Dormitory												
D	<b>D1:</b> Retention and adaptive reuse of Faulds House. (includes linking open space passage)	✓											
	<b>D2:</b> Demolition of Faulds House (Possibility of connecting laneway along southern boundary, between zones B and F)		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	<b>D3:</b> Extend development in zone B onto Faulds House area			✓		✓		✓		✓		✓	✓
E	<b>E1:</b> Passive open space	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
F	<b>F1:</b> Restoration of McCredie Cottage, and adaptive community reuse	✓	✓	✓	✓	✓	✓	✓					



ZONE	FUTURE LAND USES	OPTIONS											
		BASE CASE	OPTION 1A	OPTION 1B	OPTION 2A	OPTION 2B	OPTION 3A	OPTION 3B	OPTION 4A	OPTION 4B	OPTION 5A	OPTION 5B	OPTION 6
	(e.g. child care, respite care)												
	<b>F2:</b> Demolition of McCredie Cottage, and terrace development								✓	✓	✓	✓	✓
	<b>F3:</b> Development along Byron Road										✓	✓	✓

### Step 5: Develop master plan for each land use option

Weston Williams were commissioned to develop master planning for the short listed options.

**The Final Design Report for these master plans can be found at Appendix D:** Linnwood Master Plan Design Report.

# Assessment of options

A multi-criteria analysis (MCA) was applied to the options long-list identified in Step 4 and illustrated in Step 5 to identify a short-list of options that perform strongly against qualitative criteria.

The following section:

- Explains what an MCA is, and why it has been used to assess the land use options;
- Outlines the MCA process and results;
- Analyses the short list of options; and
- Identifies and describes the preferred option.

## Multi-criteria analysis (MCA)

An MCA is a form of appraisal that is often used when it is not possible or practical to value costs and benefits in purely monetary terms. As explained by NSW Treasury:

*MCA entails identifying pre-defined criteria, assigning weights to them, and then scoring options... on how well they perform against each weighted criterion. The sum of weighted scores is used to rank each [option] against others in the pool of [options] that are being ranked.<sup>5</sup>*

The benefit of using an MCA to evaluate the land use options is that it allows for the consideration of the relative qualitative contribution of each option to each performance criterion. It also provides a degree of structure to the evaluation process, which inevitably involves a degree of subjective judgment where qualitative elements are considered. It is particularly appropriate in contexts where criteria are not readily quantifiable – such as the strategic merit, community amenity and deliverability of an option.

While MCA can be extended to be an alternative economic appraisal method to a value-driven cost-benefit analysis (CBA), the MCA in this instance has been designed to consider performance against ten qualitative impact criteria, identified in Table 9.

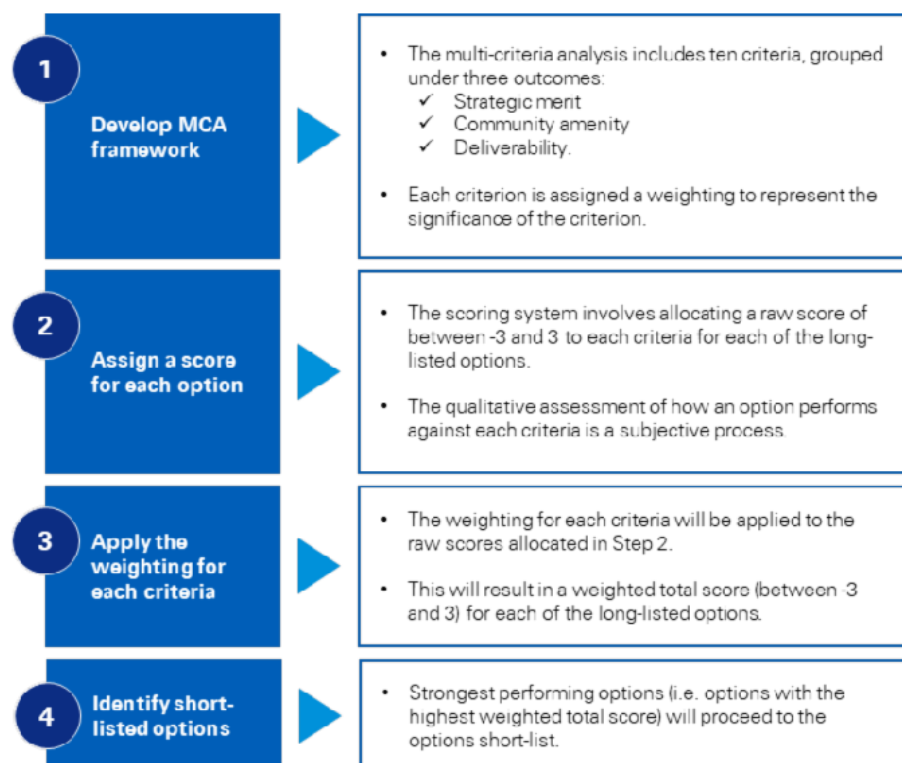
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<sup>5</sup> NSW Treasury 2017, NSW Government Guide to Cost Benefit Analysis TPP17-03

## Multi-criteria analysis framework

The following diagram outlines how the qualitative assessment was undertaken.

*Figure 16: The MCA framework*



## The multi-criteria analysis framework

Table 9: Outcomes assessed as part of the qualitative assessment

	CRITERIA	DESCRIPTION	WEIGHTING (%)
<b>1</b>	<b>Strategic merit</b>		
<b>1a</b>	Alignment with Greater Sydney Region Plan and Central City District Plan	Delivers on the NSW Government's Greater Sydney Region Plan objectives for infrastructure, liveability, productivity and sustainability objectives.	5
<b>1b</b>	Strategic alignment Council strategic plans	Alignment with objectives and priorities identified in the Cumberland Local Strategic Planning Statement, Cumberland Community Facilities Strategy, Cumberland Open Space and Recreation Strategy, and Greystanes Places Development Plan.	5
<b>2</b>	<b>Community amenity</b>		
<b>2a</b>	Retaining heritage value of the site	<p>The land use option responds to the community interest in retaining the heritage value of the site. This includes consideration of whether the option:</p> <ul style="list-style-type: none"> <li>includes any enhancement of the original grounds or restoration works,</li> <li>is consistent or sympathetic with the site's historical function,</li> <li>Respects the views and vistas within the site, as identified in the 2019 CMP,</li> <li>Respects the ecologically significant vegetation on the site.</li> </ul>	30
<b>2b</b>	Provision of open space and recreational opportunities	The land use option responds to the need for open space and recreational space for public consumption.	15
<b>2c</b>	Delivering affordable or social housing	The land use option responds to the housing needs of the increasingly diverse population at various stages of their lives.	5
<b>2d</b>	Provides opportunity for community use	The Community Facilities Strategy identifies that there is a need for the provision of multipurpose, adaptable and accessible community facilities to promote increased social and community connections. This criteria includes consideration of whether there are opportunities for Sunnyfield to continue its operations on the site.	15
<b>2e</b>	Provides opportunities for passive surveillance of the site	Enhancing the visibility between users of surrounding buildings and spaces can improve the security of the open spaces and pedestrian routes on the site.	5

	CRITERIA	DESCRIPTION	WEIGHTING (%)
<b>3</b>	<b>Deliverability</b>		
<b>3a</b>	Requires amendments to planning instruments	The land use option requires minimal amendment to the Holroyd LEP or DCP.	10
<b>3b</b>	Minimise complex stakeholder management	Ensuring that the required stakeholder engagement and buy-in from government agencies or private providers does not pose project delays or a significant risk to the implementation of the land use option.  Stakeholder risk increases if land use requires: <ul style="list-style-type: none"> <li>• demolition (OEH, Heritage Council, DPIE);</li> <li>• subdivision (HC, OEH, DPIE, Crown Lands);</li> <li>• negotiation or non-renewal of Sunnyfield licence; or</li> <li>• impacts to public accessibility (Friends of Linnwood, community).</li> </ul>	5
<b>3d</b>	Ease of management	The land use option may involve multiple potential lessees, licencees, developers and/or other land users. Multiple land users may complicate the management of the site as a whole.	5
	<b>TOTAL</b>		<b>100</b>

A scoring system was devised to generate a qualitative assessment for each option. This included a weighting for each outcome as outlined in the above table and a raw score placed against each outcome. From this, a total weighted score was produced for each option against each objective.

The scoring system applied involved allocating a score of between -3 and 3 to each outcome, as outlined in Table 10.

*Table 10: Scoring system*

KEY	SCORE
Highly likely to deliver outcome	3
Somewhat likely to deliver outcome	2
	1
Neutral	0
Somewhat unlikely to deliver outcome	-1
	-2
Highly unlikely to deliver outcome	-3



### Results of the multi-criteria analysis

The multi-criteria analysis includes a score against each outcome and objective, as well as an overall total weighted score for each option based on the raw scores and weightings applied to them.

*Table 11: Weighted results of the qualitative assessment*

CRITERIA	MAXIMUM RAW SCORE	BASE CASE	OPTION 1A	OPTION 1B	OPTION 2A	OPTION 2B	OPTION 3A	OPTION 3B	OPTION 4A	OPTION 4B	OPTION 5A	OPTION 5B	OPTION 6
Strategic merit	10	-15	20	20	20	20	20	20	20	20	20	20	25
Community amenity	70	80	140	130	140	130	125	25	80	85	140	130	0
Deliverability	20	45	40	25	30	15	10	-5	-5	-10	-10	-15	-20
<b>Total Weighted Score</b>	<b>100</b>	<b>1.1</b>	<b>2</b>	<b>1.75</b>	<b>1.9</b>	<b>1.65</b>	<b>1.55</b>	<b>0.4</b>	<b>0.95</b>	<b>0.95</b>	<b>1.5</b>	<b>1.35</b>	<b>0.05</b>

### Key scoring considerations

Each option has its relative strengths. However, performance in particular sub-criteria commonly distinguished the stronger options from others:

- **Opportunities for community use** – Options performed strongly where there are opportunities for Sunnyfield to continue its operations on the Linnwood site. Sunnyfield could either continue to use the Dormitory and Faulds House under the base case, relocate to McCredie Cottage once restored, or relocate to a purpose built complex on the land vacated by McCredie Cottage. The failure to provide an alternative base for Sunnyfield was considered to be a highly undesirable outcome.
- **Stakeholder engagement** – Options performed poorly where extensive engagement with stakeholders are necessary to implement the option. In particular, some options are likely to require subdivision of the area reserved by the Linnwood Estate Reserve Trust, triggering coordination with Crown Lands and community consultation. All options will also require approval(s) by the Heritage Council of NSW, pursuant to the Heritage Act. Nonetheless, options that include a greater intensity of development are expected to involve a more complex interface with both Crown Lands and the Heritage Council. Further consideration was given to the need to engage with developers for development along the southern boundary.
- **Open space provision** – Options performed strongly where open space was maximised across the site. There is a trade-off between using land for development and publicly accessible open space, however, the distribution of the development footprint is also an important consideration, given the potential of the site to provide linking open space as a passageway between Byron Road and Tamplin Road.
- **Respecting the views and visual curtilages** – Options performed poorly in the heritage value sub-criteria where the proposed development would be likely to impede significant views, particularly those from Linnwood House.

### Summary of short-listed options

Seven options performed particularly strongly in the qualitative assessment.

These were options 1a and 1b, 2a and 2b, 3a and 3b and 5a.

The difference between options (a) and (b) is the extended development into Zone D.

As noted in 5.1.4 Heritage Council of NSW stakeholder consultation, it was agreed that development into Zone D would conflict with the approved Linnwood CMP, therefore the four short-listed options for assessment were confirmed as:

- Option 1a
- Option 2a
- Option 3a
- Option 5a

These options are now presented in Section 8.2 Analysis

## Analysis

### Overview

This section provides financial analysis to demonstrate the financial viability of each option and the funding requirement of Council under different levels of development.

More detail on the methodology and assumptions underpinning the financial analysis can be found in Appendix B: Financial Analysis.

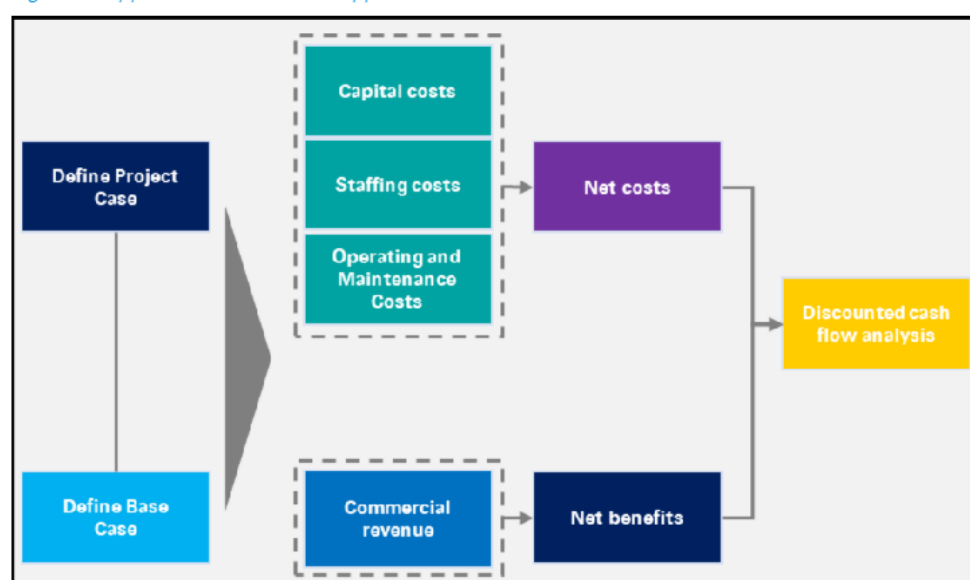
### Financial analysis (FA) approach

The FA involved the following steps:

- **Step One:** articulating the 'do minimal' base case, option components, options long list and then short list for analysis;
- **Step Two:** identifying option components and packages of options;
- **Step Three:** constructing a long list of options and then refining the short list;
- **Step Four:** identifying relevant financial cash flows for the "do minimal" Base Case and the options.
- **Step Five:** quantification of the financial cash flows.
- **Step Six:** comparing and contrasting the financial cash flows over an appropriate timeframe.
- **Step Seven:** generating and demonstrating performance measures such as NPV and break even analysis to evaluate the relative financial impact of options.
- **Step Eight:** sensitivity analysis to assess the impacts of changes in key variables on performance measures.

The approach to undertaking the financial appraisal is illustrated in Figure 17.

Figure 17 Approach to the financial appraisal



## Appraisal scenario definition

For the purpose of the Business Plan, the financial appraisal of four development options for the site have been completed relative to the Base Case. Specifically, these options are:

- **Base Case** – To ensure consistency, options were compared to a “do minimum” Base Case. It is important to note that the Base Case is not a “do nothing” or “spend nothing” scenario. Under the base case, the project site is assumed to maintain the current costs and revenues.
- **Option Cases** – Each option seeks to provide a new development on Linnwood Estate, unlocking revenue to fund the reinvigoration of the site. The FA demonstrates the capacity of each option to self-fund the reinvigoration of the site.

Figure 18: Overview of the base case and short-listed options

Base Case	
<ul style="list-style-type: none"> <li>• No new works or development.</li> <li>• Faulds House is retained, and McCredie Cottage is renovated for community purposes.</li> <li>• Sunnyfield to renew license and remain in Faulds House and Dormitory.</li> <li>• Maximised open space for passive recreational use.</li> </ul>	
Option 1A	Option 2A
<ul style="list-style-type: none"> <li>✓ Remove Faulds House.</li> <li>✓ Restoration and adaptive community reuse of McCredie Cottage.</li> <li>✓ Low intensity housing development (5 lots) in south-western corner.</li> <li>✓ Option for Sunnyfield to relocate to McCredie Cottage.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Remove Faulds House.</li> <li>✓ Restoration and adaptive community reuse of McCredie Cottage.</li> <li>✓ Moderate intensity housing development (10 lots) in south-western corner.</li> <li>✓ Option for Sunnyfield to relocate to McCredie Cottage.</li> </ul>
Option 3A	Option 5A
<ul style="list-style-type: none"> <li>✓ Remove Faulds House.</li> <li>✓ Restoration and adaptive community reuse of McCredie Cottage.</li> <li>✓ Higher intensity seniors housing or similar clustered development in south-western corner.</li> <li>✓ Option for Sunnyfield to relocate to McCredie Cottage.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Remove Faulds House.</li> <li>✓ Remove McCredie Cottage.</li> <li>✓ Moderate intensity housing development (10 lots) in south-western corner.</li> <li>✓ Moderate intensity affordable housing (9 lots) and disability housing (11 lots) in the south-east corner.</li> <li>✓ Develop community facility along Byron Road, with option for Sunnyfield to relocate.</li> </ul>

## Key parameters

A range of timing, cost and escalation assumptions were adopted to undertake the financial appraisal. These assumptions are summarised in Table 12 below.

*Table 12 Financial and appraisal parameters*

Item	Assumption	Source
<b>Base date for NPV</b>	1 July 2020	Base assumption
<b>Cash flow timings</b>	Annual (financial year)	Base assumption
<b>Timing of cash flows</b>	End of period (i.e. 30 June)	Base assumption
<b>CPI</b>	2.25 per cent p.a.	2021-22 projection based on the NSW Treasury Sydney consumer price index.
<b>Nominal discount rate</b>	5.0 per cent p.a.	Sensitivity analysis provided for 3 per cent and 7 per cent.
<b>Period of analysis</b>	Thirty years from 2020-21 to 2049-50.	A thirty year project lifespan was determined to be reasonable based on the project lifespan of this asset and the implementation of capital infrastructure.
<b>Rental revenue</b>	\$42,600 per annum indexed	Current licence agreement with Sunnyfield
<b>Development costs and timing</b>	Split across years 1 and 2.	Provided by Council in December 2016 dollars, escalated using ASB 6427.0 Producer Price Indexes (construction industry index – Sydney)
<b>Utilities and miscellaneous maintenance</b>	Trend of data	Provided by Council
<b>Property manager and security</b>	Property manager cost split with Heritage Council NSW	Industry averages
<b>Development revenue</b>	Approximately \$1,050 per square meter for townhouses/	Market analysis of sales for analogous developments

## Results of Financial Appraisal

This section delivers the summary of the FA in Table 13 below. Notes to guide the reading:

- **Base Case** – trend analysis of Council contributions to Linnwood provide an estimate of \$22,412 per annum may be expected to be provided by Council for the estate. This number is excluded from the below results i.e. any recurrent requirement up to \$22,412 can be viewed to be able to be met by current funding expectations.
- **Option 3** – the master planning provided for 22 to 32 residential apartments in the cluster approach. A figure of 30 apartments was used for modelling.
- **Option 5** – the master planning allotted 2,315 sq.m. for a new community centre and 3,317 sq.m in residential terraces in the option that involves demolition of McCredie.

*Table 13 Financial appraisal of the options (\$ mill, NPV, discount rate 5 per cent)*

Financial discount rate 5.00%					
Option 1	Year 1	Year 2	Construction	Year 3+	PV (30 years)
Capital costs	\$2,304,780	\$2,321,852	\$4,626,632	\$0	\$4,573,993
Income from development	\$625,000	\$639,063	\$1,264,063	\$0	\$1,174,887
Recurrent costs (before depreciation)	\$0	\$0	\$0	\$84,427	\$1,460,173
Recurrent revenue (including Rates)	\$0	\$0	\$0	\$49,202	\$850,951
Funding required for capex	(\$1,679,780)	(\$1,682,789)	(\$3,362,569)	\$0	(\$3,399,106)
Funding required for opex	\$0	\$0	\$0	(\$35,225)	(\$609,222)
Option 2	Year 1	Year 2	Construction	Year 3+	PV (30 years)
Capital costs	\$2,304,780	\$2,321,852	\$4,626,632	\$0	\$4,573,993
Income from development	\$1,000,000	\$1,022,500	\$2,022,500	\$0	\$1,879,819
Recurrent costs (before depreciation)	\$0	\$0	\$0	\$84,427	\$1,460,173
Recurrent revenue (including Rates)	\$0	\$0	\$0	\$52,297	\$904,479
Funding required for capex	(\$1,304,780)	(\$1,299,352)	(\$2,604,132)	\$0	(\$2,694,174)
Funding required for opex	\$0	\$0	\$0	(\$32,130)	(\$555,694)
Option 3	Year 1	Year 2	Construction	Year 3+	PV (30 years)
Capital costs	\$2,304,780	\$2,321,852	\$4,626,632	\$0	\$4,573,993
Income from development	\$2,175,000	\$2,223,938	\$4,398,938	\$0	\$4,088,605
Recurrent costs (before depreciation)	\$0	\$0	\$0	\$84,427	\$1,460,173
Recurrent revenue (including Rates)	\$0	\$0	\$0	\$64,677	\$1,118,589
Funding required for capex	(\$129,780)	(\$97,914)	(\$227,694)	\$0	(\$485,387)
Funding required for opex	\$0	\$0	\$0	(\$19,750)	(\$341,584)
Option 5	Year 1	Year 2	Construction	Year 3+	PV (30 years)
Capital costs	\$3,297,473	\$3,342,341	\$6,639,814	\$0	\$6,445,028
Income from development	\$2,800,000	\$2,863,000	\$5,663,000	\$0	\$5,263,492
Recurrent costs (before depreciation)	\$0	\$0	\$0	\$84,427	\$1,460,173
Recurrent revenue (including Rates)	\$0	\$0	\$0	\$64,677	\$1,118,589
Funding required for capex	(\$497,473)	(\$479,341)	(\$976,814)	\$0	(\$1,181,536)
Funding required for opex	\$0	\$0	\$0	(\$19,750)	(\$341,584)



# Summary of analysis

The FA combined with the broader site analysis demonstrates a number of salient points:

- In contrast to historic approaches of closing off the site and developing along Tamplin Road, discussions with stakeholders and contemporary analysis have demonstrated that the optimal outcomes for the site will be achieved if only 'Zone B' within The Tamplin Road Reserve Trust is developed with residential premises, enabling through-access for the open space.
- The capital financial requirement to redevelop Linnwood and McCredie has a present value of approximately \$4.5 million. This increases to approximately \$6 million if McCredie is to be demolished and replaced with a new community facility.
- The above two points result in various pathways available to the Council:
  - Low density terrace development in 'Zone B' within The Tamplin Road Reserve Trust, rendering a funding gap in the magnitude of \$2.5 million to \$3.5 million.
  - Medium density apartment development in 'Zone B' in the Tamplin Road Reserve Trust, which is estimated to return income from the development in line with the cost of redevelopment to the rest of the site (contingent on a final business case).
  - Low density terrace development in 'Zone B' in the Tamplin Road Reserve Trust supplemented by low density terrace development in 'Zone F' within The Linnwood Estate Reserve Trust, which is estimated to return income from the development in line with the cost of redevelopment to the rest of the site, including demolition of McCredie and construction of a new community facility (pending final business case).
  - Demolition of McCredie is recognised to present more significant challenges to Heritage, and development in Zone F is recognised more significant challenges to planning to implications.

It is recognised that this Business Plan would be required to be followed by a full business case of the preferred option to analyse the preferred land use option and its implementation in more detail than is provided in this assessment.

This final business case would also confirm the design of the preferred option, contemporise the 2016 QS inputs for the redevelopments, and value manage the master program with intent to ensure the income from development exceeds the cost of redeveloping the rest of the site.

## Recommendation and implementation

- This Business Plan presented the master plans and strategic analysis including preliminary financial analysis to Council to assess the options and select a preferred option to progress.
- Based on the analysis and assumptions made, Option 3 performs the best and would be recommended based on the approach adopted with Cumberland. This included a preferred approach to balancing the revenue from development, the construction costs, and the due respect of the heritage of the site in the proposed design.
- Confirmation of the recommended option is required to verify the financial impact in greater detail and develop necessary strategies to meet the planning and Heritage requirements.
- Following endorsement of the preferred option, the next steps should involve final detailed analysis of the preferred option, including final detailed design and capital cost estimation, updated financial model with updated property assumptions, and final planning determinations (i.e. all specified to the preferred option).

# Implementation

## Management considerations

- Final business case
  - Upon consideration of the financial analysis and planning implications, Council may commission a final business case for the preferred option.
- Project management strategy
  - The implementation of a project plan to track key milestones and project progress to be developed in parallel with the business case.
- Change and stakeholder management strategy
  - Implementation of an issues/feedback register to track feedback from working groups and decisions made by the lead team.
- Risk management strategy
  - Documenting and registering risks along with appropriate mitigation strategies.
  - Utilisation of a monthly risk management reporting tool.

## Planning implications

Planning assumptions must be made for access, heritage, environment and microclimate around the precinct.

### Key strategies and planning controls

The following planning documents provide direction to Linnwood Estate in achieving the design excellence objectives of the brief:

- Draft Cumberland Local Environmental Plan 2020
- Draft Cumberland Development Control Plan 2020
  - Holroyd Development Control Plan 2013
- Linnwood Estate Conservation Management Plan 2020
- Crown Land Management Act 2016
- Relevant State Environmental Planning Policies
- Relevant Strategic Planning Policies
- Competitive Design Process requirements

## Community consultation

The majority of the community and stakeholders who participated supported ideas across the following three areas shown below:

- Design – amenable to removal of Faulds House if overall amenity was increased
- Functionality – to provide flexibility in future management decisions while accommodating the current tenancy of Sunnyfield.
- Facilities – retention of open space and improved

Furthermore, outlined in Table 14 is a summary from the consultations with the public that revealed several of the following key themes to consider for Linnwood Estate.

*Table 14 Key theme findings from consultations*

Themes	Description
<b>Identity</b>	<ul style="list-style-type: none"> <li>• Encourages connection and interaction between community and visitors while promoting knowledge, creativity and diversity.</li> <li>• Iconic, exciting, engaging and timeless (merging 'old and new')</li> <li>• Unique identity and a place of belonging;</li> </ul>
<b>Sustainability (Financial and environmental)</b>	<ul style="list-style-type: none"> <li>• Is sensitive and beneficial to the community and the environment;</li> <li>• An efficient use and re-use of resources through design.</li> </ul>
<b>Flexibility</b>	<ul style="list-style-type: none"> <li>• Use of spaces in a way that can adapt and attract a broad cross-section of the community.</li> </ul>
<b>Accessibility</b>	<ul style="list-style-type: none"> <li>• Means ensuring a welcoming space that removes barriers to participation (including physical/cultural/financial/technological and administrative)</li> <li>• Easily accessible amenities such as transport, water points/stations, storage facilities (lockers), push-bike stands and staff/volunteers.</li> </ul>
<b>Uses</b>	<ul style="list-style-type: none"> <li>• Promotion of activation of the Estate to various types of community use.</li> </ul>

# Appendix A: Document register

The following table provides a register of information received and gathered to date.

Table 15 Document register

Item number	Document name and description
Item 1	<b>Archaeological Assessment</b> Linnwood Estate Baseline Archaeological Assessment (Desktop)
Item 2	<b>Survey Map 1</b> Plan of proposed subdivision of Lot 1 D.P. 169485 & Lot 1 D.P. 183017 Linnwood Estate Guildford
Item 3	<b>Survey Map 2</b> Plan showing marks placed for fencing within Linnwood estate at Bryon road Guildford
Item 4	<b>Survey Map 3</b> Plan showing detail, levels & contours over lot 1 D.P. 169485 & Lot 1 D.P. 183017 Linnwood Estate Guildford
Item 5	<b>Restoration plan</b> 'Linnwood' Rose Garden Landscape Restoration Plan
Item 6	<b>Income and Expenditure Spreadsheet</b> Linnwood Estate Income and Expenditure 2001/2 to 30 June 2014
Item 7	<b>Auburn Local Environmental Plan</b> Legislative framework for land use and development in a Local Government Area
Item 8	<b>Parramatta Local Environmental Plan 2011</b> Legislative framework for land use and development in a Local Government Area
Item 9	<b>Holroyd Local Environmental Plan 2013</b> Legislative framework for land use and development in a Local Government Area
Item 10	<b>Environmental Planning and Assessment Act 1979</b> NSW planning and development legislation
Item 11	<b>Cumberland Planning Agreements Policy</b> Policies and procedures relating to planning agreements under the Environmental Planning and Assessment Act 1979
Item 12	<b>Cumberland Planning Agreements Guidelines</b> Policies and procedures relating to planning agreements under the Environmental Planning and Assessment Act 1979
Item 13	<b>Australian Bureau of Statistics</b> Cumberland Council Census data 2016, including population, age distribution and housing stock within the local area.

Item number	Document name and description
Item 14	<b>Linnwood Management Plan</b> City Plan Heritage developed a management plan for Linnwood Estate, which included advice regarding an appropriate management structure for the site
Item 15	<b>Conservation Management Plan (2004)</b> City Plan Heritage developed a conservation plan for Linnwood Estate. The Conservation Plan provides the framework in which significance is identified, and includes Conservation Policies which guide change and conservation, recommendations on appropriate uses, and a discussion of funding and revenue.
Item 16	<b>Cumberland Community Strategic Plan 2017-27</b> The Cumberland Community Strategic Plan sets out the community's vision for the future; the strategies in place to achieve it, and how progress towards or away from the vision will be measured.
Item 17	<b>Draft Employment and Innovation Lands Strategy – Land Use Planning Framework</b> The Draft Employment and Innovation Lands Strategy and Land Use Planning Framework 2017 has been prepared to assist Council in strategic planning for the economically significant employment and innovation lands located across the Cumberland Council local government area.
Item 18	<b>Cumberland Youth Strategy 2017 – 2021</b> Cumberland Council's Youth Strategy 2017-2021 provides a clear direction for Council and its partners over the next four years to support better outcomes for young people and make Cumberland a vibrant place of opportunity where all young people are supported to learn, be safe, belong, work and contribute.
Item 19	<b>Benchmarks for Community Infrastructure 2012</b> Parks and Leisure Australia produced a reference point and establish benchmarks for the provision of new community infrastructure development within existing or new development areas.
Item 20	<b>Cumberland Council's Engagement Policy 2018</b> Cumberland Council's current engagement policies related to the selection and communication with community members.
Item 21	<b>TPP17-03 NSW Government Guide to Cost-Benefit Analysis</b> NSW Treasury guidelines related to the methods and assumptions to be used in cost benefit analysis.
Item 22	<b>HCC Linnwood Estate – Cost Summary (PDF and excel workbook)</b> Detailed report provided by AltusPageKirkland on the costs required to upgrade the buildings and structures on site in line with the recommendations in the CMP.
Item 23	<b>Holroyd DCP 2013</b> Development Control Plans (DCPs) provide guidance for the design and operation of development within a Local Government Area (LGA) to achieve the aims and objectives of the Local Environmental Plan (LEP).
Item 24	<b>State Heritage Listing</b> The State Heritage Inventory is a list of heritage items in New South Wales including Aboriginal Places, State Heritage Register, Interim Heritage Orders, State Agency Heritage Registers and Local Environmental Plans.
Item 25	<b>Central City District Plan</b> The Central City District Plan, sets out planning priorities and actions for improving the quality of life for residents as the District grows and changes.

Item number	Document name and description
Item 26	<p><b>Conservation Management Plan (2019)</b></p> <p>City Plan Heritage updated the 2004 CMP (Item 14 above) in March 2019. It provides policies, guidelines and recommendations that will provide for the ongoing conservation and management of the cultural significance of Linnwood and its setting. The CMP was submitted to the Office of Environment and Heritage / Heritage Council for review and endorsement, which it received conditionally July 2020.</p>



# Appendix B: Financial Analysis details

Options				Period start	01-Jul-20	01-Jul-21	01-Jul-22	01-Jul-23	01-Jul-24	01-Jul-25	01-Jul-26	01-Jul-27	01-Jul-28	01-Jul-29
				Period end	01-Jun-21	01-Jun-22	01-Jun-23	01-Jun-24	01-Jun-25	01-Jun-26	01-Jun-27	01-Jun-28	01-Jun-29	01-Jun-30
				Escalation	-	1.00	2.00	3.00	4.00	5.00	6.00	7.00	8.00	9.00
1	Costs													
1.01	Capital Costs													
		Estimate	Nominal	Escalation										
	Linnwood External Scope	AUD	439,982	446,142	1.0280	219,991	226,151	-	-	-	-	-	-	-
	Linnwood Building	AUD	952,829	966,169	1.0280	476,415	489,755	-	-	-	-	-	-	-
	Dormitory	AUD	329,705	334,321	1.0280	164,853	169,469	-	-	-	-	-	-	-
	McCreddie Cottage redevelopment	AUD	2,794,702	2,833,828	1.0280	1,397,351	1,436,477	-	-	-	-	-	-	-
	Community facility construct	AUD	4,780,088	4,847,011	1.0280	2,390,044	2,456,967	-	-	-	-	-	-	-
	Faulds House demolish	AUD	46,171	46,171	1.0280	46,171	-	-	-	-	-	-	-	-
	Capital maintenance expenses	AUD	451,722	844,869	1.0280	-	-	-	-	-	-	-	-	-
	<b>Total - Options 1 to 3</b>	AUD	<b>5,015,111</b>	<b>5,471,501</b>		<b>2,304,780</b>	<b>2,321,852</b>	-	-	-	-	-	-	-
	<b>Total - Option 5</b>	AUD	<b>7,000,497</b>	<b>7,484,683</b>		<b>3,297,473</b>	<b>3,342,341</b>	-	-	-	-	-	-	-
1.02	Operating and Maintenance Costs													
	Electricity	AUD	10,433	419,126	1.0225	-	-	10,908	11,153	11,404	11,661	11,923	12,191	12,466
	Water	AUD	9,559	38,028	1.0225	-	-	9,994	10,219	10,449	10,684	10,925	11,171	11,422
	Property Manager	AUD	24,000	96,416	1.0225	-	-	25,092	25,657	26,234	26,824	27,428	28,045	28,676
	Security	AUD	10,400	41,797	1.0225	-	-	10,873	11,118	11,368	11,624	11,885	12,153	12,426
	Miscellaneous maintenance	AUD	26,360	1,058,940	1.0225	-	-	27,559	28,179	28,813	29,462	30,124	30,802	31,495
	<b>Sub-total</b>	AUD		<b>3,214,637</b>		-	-	<b>84,427</b>	<b>86,326</b>	<b>88,269</b>	<b>90,255</b>	<b>92,286</b>	<b>94,362</b>	<b>96,485</b>
	<b>Total</b>	AUD		<b>6,591,103</b>		-	-	<b>198,938</b>	<b>200,838</b>	<b>202,780</b>	<b>204,766</b>	<b>206,797</b>	<b>208,874</b>	<b>210,997</b>
2	Revenue													
2.01	Construction Grants													
	Recurrent grant	AUD	22,412	-	1.0225	-	-	-	-	-	-	-	-	-
	Capital grant	AUD	-	-	1.0225	-	-	-	-	-	-	-	-	-
	<b>Total</b>	AUD				-	-	-	-	-	-	-	-	-
2.02	Miscellaneous revenue													
	Sunnyfield	AUD	41,600	1,671,187	1.0225	-	-	43,493	44,472	45,472	46,495	47,542	48,611	49,705
	Friends of Linnwood	AUD	2,500	100,432	1.0225	-	-	2,614	2,673	2,733	2,794	2,857	2,921	2,987
	Property Manager	AUD	12,000	482,073	1.0225	-	-	12,546	12,828	13,117	13,412	13,714	14,022	14,338
	<b>Total</b>	AUD		<b>1,771,619</b>		-	-	<b>46,107</b>	<b>47,144</b>	<b>48,205</b>	<b>49,290</b>	<b>50,399</b>	<b>51,533</b>	<b>52,692</b>
2.03	Development													
	Option 1	AUD	1,250,000	1,264,063	1.0225	625,000	639,063	-	-	-	-	-	-	-
	Option 2	AUD	2,000,000	2,022,500	1.0225	1,000,000	1,022,500	-	-	-	-	-	-	-
	Option 3	AUD	4,350,000	4,398,938	1.0225	2,175,000	2,223,938	-	-	-	-	-	-	-
	Option 5	AUD	5,600,000	5,663,000	1.0225	2,800,000	2,863,000	-	-	-	-	-	-	-
	<b>Total</b>	AUD		<b>1,264,063</b>		-	-	-	-	-	-	-	-	-
2.04	Council Rates													
	Option 1	AUD	2,960	118,921	1.0225	-	-	3,095	3,165	3,236	3,309	3,383	3,459	3,537
	Option 2	AUD	5,921	237,843	1.0225	-	-	6,190	6,329	6,472	6,617	6,766	6,918	7,074
	Option 3	AUD	17,762	713,529	1.0225	-	-	18,570	18,988	19,415	19,852	20,298	20,755	21,222
	Option 5	AUD	17,762	713,529	1.0225	-	-	18,570	18,988	19,415	19,852	20,298	20,755	21,222
	<b>Total</b>	AUD		<b>118,921</b>		-	-	<b>46,424</b>	<b>47,469</b>	<b>48,537</b>	<b>49,629</b>	<b>50,746</b>	<b>51,888</b>	<b>53,055</b>
Total Costs - Option 1 to 3						2,304,780	2,321,852	84,427	86,326	88,269	90,255	92,286	94,362	96,485
Total Costs - Option 5						3,297,473	3,342,341	84,427	86,326	88,269	90,255	92,286	94,362	96,485
Total Recurrent revenue - Option 1						-	-	40,202	50,309	51,441	52,598	53,782	54,992	56,229
Total Recurrent revenue - Option 2						-	-	52,297	53,473	54,677	55,907	57,165	58,451	59,766
Total Recurrent revenue - Option 3						-	-	64,677	66,132	67,620	69,141	70,697	72,288	73,914
Total Recurrent revenue - Option 5						-	-	64,677	66,132	67,620	69,141	70,697	72,288	73,914
End of sheet														

## Appendix C: Land use definitions under the Holroyd LEP

Land use themes	Land use options	Description (LEP Definitions)	Considerations / limitations for Linnwood
<b>Accommodation</b>	Bed and breakfast accommodation	An existing dwelling in which temporary or short-term accommodation is provided on a commercial basis by the permanent residents of the dwelling and where:  (a) meals are provided for guests only, and  (b) cooking facilities for the preparation of meals are not provided within guests' rooms, and  (c) dormitory-style accommodation is not provided.	<p>This land use could:</p> <ul style="list-style-type: none"> <li>Involve a long term lease of the Tamplin Road Reserve portion of the site for the development of bed and breakfast accommodation, boarding houses or hostels</li> <li>Fail to attract strategic partnerships or achieve alignment with the strategic objectives of the region.</li> </ul>
	Boarding houses	boarding house means a building that:  (a) is wholly or partly let in lodgings, and  (b) provides lodgers with a principal place of residence for 3 months or more, and  (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and  (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,  but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.	
	Hostels	premises that are generally staffed by social workers or support providers and at which:	

		<p>(a) residential accommodation is provided in dormitories, or on a single or shared basis, or by a combination of them, and</p> <p>(b) cooking, dining, laundering, cleaning and other facilities are provided on a shared basis.</p>	
<b>Health</b>	Health consulting rooms	Premises comprising one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals at any one time	<p>This land use could:</p> <ul style="list-style-type: none"> <li>• Involve the adaptive reuse of McCredie Cottage for the provision of clinical services for residents, Sunnyfield clients, and the broader local community.</li> <li>• Meet the medical needs of the ageing population in the Cumberland area, in addition to the high proportion of families with children residing in the area.</li> <li>• Require alterations and additions to McCredie Cottage, and significant costs to repair and restore the building.</li> <li>• Transfer the maintenance costs from Council to the lessee.</li> </ul>
	Respite day care centres	A building or place that is used for the care of seniors or people who have a disability and that does not provide overnight accommodation for people other than those related to the owner or operator of the centre.	<p>This land use could:</p> <ul style="list-style-type: none"> <li>• Involve providing a licence to a respite day care centre to operate out of spare space in the Dormitory and Faulds House, or involve the adaptive reuse of McCredie Cottage.</li> <li>• Require significant alterations and additions to McCredie Cottage, and significant costs to repair and restore the building.</li> <li>• Transfer the maintenance costs from Council to the lessee.</li> </ul>

	Seniors housing	<p>a building or place that is:</p> <ul style="list-style-type: none"> <li>(a) a residential care facility, or</li> <li>(b) a hostel within the meaning of clause 12 of <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i>, or</li> <li>(c) a group of self-contained dwellings, or</li> <li>(d) a combination of any of the buildings or places referred to in paragraphs (a)–(c),</li> </ul> <p>and that is, or is intended to be, used permanently for:</p> <ul style="list-style-type: none"> <li>(e) seniors or people who have a disability, or</li> <li>(f) people who live in the same household with seniors or people who have a disability, or</li> <li>(g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place,</li> </ul> <p>but does not include a hospital.</p>	<p>This land use could:</p> <ul style="list-style-type: none"> <li>• Involve providing a licence to an aged care facility to operate out of spare space in the Dormitory and Faulds House.</li> <li>• Involve a long term lease of the Tamplin Road Reserve portion of the site for the development of an aged care facility.</li> </ul>
<b>Residential</b>	Attached dwellings	<p>An attached dwelling is a building containing three or more dwellings, where:</p> <ul style="list-style-type: none"> <li>(a) each dwelling is attached to another dwelling by a common wall, and</li> <li>(b) each of the dwellings is on its own lot of land, and</li> <li>(c) none of the dwellings is located above any part of another dwelling.</li> </ul>	<p>These land uses could:</p> <ul style="list-style-type: none"> <li>• Require the subdivision of the western part of the site outlined as part of the Tamplin Road Reserve for residential development.</li> <li>• Include a mixture of social and affordable housing.</li> <li>• Involve a long term lease of this portion of the site, generating a one-off payment that could be used to in the maintenance, repair or improvement of the site.</li> <li>• Require the removal of the Laundry, and its archival recording pursuant to Policy 43 of the</li> </ul>
	Dual occupancies	<p>Either:</p> <ul style="list-style-type: none"> <li>• Two dwellings on one lot of land that are attached to each other</li> </ul>	

		<ul style="list-style-type: none"> <li>Two detached dwellings on one lot of land</li> </ul>	CMP, in addition to further consultation with OEH.
	Dwelling houses	A building containing only one dwelling.	
	Group homes	Means a dwelling: (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and (b) that is used to provide permanent or temporary household accommodation for people with a disability or people who are socially disadvantaged, but does not include development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.	
	Multi dwelling housing	Means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.	
	Semi-detached dwellings	Means a dwelling that is on its own lot of land and is attached to only one other dwelling.	
<b>Community</b>	Centre-based child care facilities	Means: (a) a building or place used for the education and care of children that provides any one or more of the following: (i) long day care, (ii) occasional child care, (iii) out-of-school-hours care (including vacation care), (iv) preschool care, or	<p>This land use could:</p> <ul style="list-style-type: none"> <li>Meet the needs of the significant and growing proportion of family households in the Cumberland area with children</li> </ul>

	<p>(b) an approved family day care venue (within the meaning of the Children (Education and Care Services) National Law (NSW)),</p> <p>Note. An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the Children (Education and Care Services) National Law (NSW)) is provided.</p>	
Community facilities	<p>Means a building or place:</p> <p>(a) owned or controlled by a public authority or non-profit community organisation, and</p> <p>(b) used for the physical, social, cultural or intellectual development or welfare of the community,</p> <p>but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.</p>	<p>This land use could:</p> <ul style="list-style-type: none"><li>• Generate social benefits by providing opportunities for the diverse community in the Cumberland area to connect.</li></ul>
Information and educational facility	<p>Means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.</p>	
Places of public worship	<p>Means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.</p>	<p>This land use could:</p> <ul style="list-style-type: none"><li>• Involve adaptive reuse of existing buildings, such as McCredie Cottage. Significant alterations and additions to McCredie Cottage would be required to make it fit for purpose, and would be associated with significant costs to repair and restore the building.</li><li>• Generate social benefits by providing opportunities for the diverse community to congregate and connect.</li></ul>



<b>Commercial</b>	Food and drink premises	<p>Means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:</p> <ul style="list-style-type: none"> <li>(a) a restaurant or cafe,</li> <li>(b) take away food and drink premises,</li> <li>(c) a pub,</li> <li>(d) a small bar.</li> </ul> <p>Note: <b>Food and drink premises</b> are a type of retail premises, which are a type of commercial premises.</p>	This land use is only permissible with consent in the area zoned R2.
	Home businesses	<p>Means a business that is carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling and that does not involve:</p> <ul style="list-style-type: none"> <li>(a) the employment of more than 2 persons other than those residents, or</li> <li>(b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or</li> <li>(c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or</li> <li>(d) the exhibition of any signage (other than a business identification sign), or</li> <li>(e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building,</li> </ul> <p>but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.</p>	This land use is unlikely, as it presupposes that there are one or more permanent residents of dwellings on the site. There are currently no dwellings with permanent residents and few buildings that can be inhabited permanently.

	Home industries	<p>Means a dwelling (or a building ancillary to a dwelling) used by one or more permanent residents of the dwelling to carry out an industrial activity that does not involve any of the following:</p> <p>(a) the employment of more than 2 persons other than those residents,</p> <p>(b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise,</p> <p>(c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter,</p> <p>(d) the exhibition of any signage (other than a business identification sign),</p> <p>(e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building,</p> <p>but does not include bed and breakfast accommodation or sex services premises.</p> <p>Note. See clause 5.4 for controls relating to the floor area used for a home industry.</p>	<p>The HLEP defines 'industrial activities' as the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing, recycling, adapting or servicing of, or the research and development of, any goods, substances, food, products or articles for commercial purposes, and includes any storage or transportation associated with any such activity.</p> <p>This land use is unlikely to align with the character of the site, and presupposes that there are one or more permanent residents of dwellings on the site. There are currently no dwellings with permanent residents and few buildings that can be inhabited permanently.</p>
	Neighbourhood shops	<p>Means premises used for the purposes of selling general merchandise such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include neighbourhood supermarkets or restricted premises.</p> <p>Note. See clause 5.4 for controls relating to the retail floor area of neighbourhood shops.</p>	<p>This land use could:</p> <ul style="list-style-type: none"> <li>• Involve the adaptive reuse of McCredie Cottage as a collection of neighbourhood shops. This would require significant alterations and additions to McCredie Cottage, and significant costs to repair and restore the building.</li> <li>• Involve the provision of neighbourhood shops to service any residential development on the</li> </ul>

			Tamplin Road Reserve portion of the site, and the day-to-day needs of other residents in the neighbourhood. This could involve a long term lease of a portion of the site, generating a one-off payment that could be used to contribute to the maintenance, repair or improvement of the site.
	Office premises	Means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.  Note: <b>Office premises</b> are a type of commercial premises	
<b>Recreation</b>	Recreation areas	Means a place used for outdoor recreation that is normally open to the public, and includes: (a) a children's playground, or (b) an area used for community sporting activities, or (c) a public park, reserve or garden or the like, and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).	This land use could: <ul style="list-style-type: none"> <li>• Require demolition of buildings &amp; structures permitted by heritage provisions to be replaced with commemorative features and broader landscape to pay homage to the history of the site.</li> <li>• Involve a strategic partnership with co-contribution from the Department of Open Space.</li> <li>• Aligns with green and open space strategic priorities of Cumberland Council, and the NSW Government.</li> <li>• Generate social and environmental benefits to users of the park, and economic benefits to adjacent properties in the form of property value uplift.</li> </ul>

# Appendix D: Linnwood Master Plan

## Design Report

Please find attached report





Base Case

Linnwood Estate

Revision:  
B

Prepared By: David Barnard

Checked By: Gennaro Di Dato

WestonWilliamson+Partners

Date: 17/7/20

Scale 1:1000







## Option 01a

### Linnwood Estate

Revision:  
B

Prepared By: David Barnard

Checked By: Gennaro Di Dato

WestonWilliamson+Partners

Date: 17/7/20

Scale 1:1000







## Option 01b

### Linnwood Estate

Revision: B

Prepared By: David Barnard

WestonWilliamson+Partners

Checked By: Gennaro Di Dato

Date: 17/7/20

Scale 1:1000







## Option 02a

### Linnwood Estate

Revision: B

Prepared By: David Barnard

WestonWilliamson+Partners

Checked By: Gennaro Di Dato

Date: 17/7/20

Scale 1:1000







## Option 02b

### Linnwood Estate

Revision:  
B

Prepared By: David Barnard

WestonWilliamson+Partners

Checked By: Gennaro Di Dato

Date: 17/7/20

Scale 1:1000







## Option 03a

### Linnwood Estate

Revision:  
B

Prepared By: David Barnard

WestonWilliamson+Partners

Checked By: Gennaro Di Dato

Date: 17/7/20

Scale 1:1000







## Option 03b

### Linnwood Estate

Revision:  
B

Prepared By: David Barnard

Checked By: Gennaro Di Dato

WestonWilliamson+Partners

Date: 17/7/20

Scale 1:1000











## Option 04b

### Linnwood Estate

B

Prepared By: David Barnard

Checked By: Gennaro Di Dato

WestonWilliamson+Partners

Date: 17/7/20

Scale 1:1000







## Option 05a

### Linnwood Estate

Revision:  
B

Prepared By: David Barnard

Checked By: Gennaro Di Dato

WestonWilliamson+Partners

Date: 17/7/20

Scale 1:1000











## Option 06

### Linnwood Estate

Revision:  
B

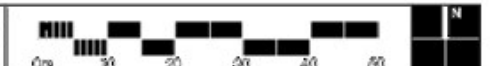
Prepared By: David Barnard

Checked By: Gennaro Di Dato

WestonWilliamson+Partners

Date: 17/7/20

Scale 1:1000







Item No: C09/20-537

## **BAD DEBTS WRITE-OFF 2020**

Responsible Division: Finance & Governance  
Officer: Director Finance & Governance  
File Number: 8404038  
Community Strategic Plan Goal: *Transparent and accountable leadership*

### **SUMMARY**

---

This report seeks endorsement from Council to write-off bad trade debts and general abandonments to the value of \$30,588.24 in accordance with Clause 213 (3) of the *Local Government (General) Regulation 2005*.

### **RECOMMENDATION**

---

**That Council endorse the write-off of unrecoverable trade debts and general abandonments identified in this report being \$30,588.24 in accordance with Clause 213 (3) of the *Local Government (General) Regulation 2005*.**

### **REPORT**

---

Clause 213 (3) of the *Local Government (General) Regulation 2005* requires that a debt can only be written off either by resolution of Council or by order in writing of the council's General Manager or his delegated officers. The General Manager is only delegated to write off debts to a maximum of \$10,000. The debts requiring to be written off exceed \$10,000.

Despite undertaking recovery action by both Council officers and the debt recovery agencies, these matters discussed below are irrecoverable.

### **COMMUNITY ENGAGEMENT**

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There are no consultation processes for Council associated with this report.

### **POLICY IMPLICATIONS**

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There are no policy implications for Council associated with this report.

### **RISK IMPLICATIONS**

---

There are no risk implications for Council associated with this report.



## FINANCIAL IMPLICATIONS

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The impact of this write-off is to reduce the provision of bad debts as Council has previously accrued the cost. The writing off of bad debts will now remove this from the accounts receivable system. Council has already accrued these amounts.

## CONCLUSION

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The above proposed write-offs totalling **\$30,588.24** are deemed to be unrecoverable for the reasons as detailed in each case. The write-offs will have no impact on Council's net financial performance for the year as the amounts have already been provided for in previous years.

## ATTACHMENTS

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1. Bad Debts Memo (confidential)

Item No: C09/20-538

## **SUBMISSION ON THE DRAFT HOUSING DIVERSITY STATE ENVIRONMENTAL PLANNING POLICY**

Responsible Division: Environment & Planning  
Officer: Director Environment & Planning  
File Number: CS-205  
Community Strategic Plan Goal: *A resilient built environment*

### **SUMMARY**

---

In July 2020, the NSW Government commenced exhibition of a draft Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP).

This report presents a summary of the proposed changes associated with this new SEPP and key considerations for Cumberland City. It is recommended that Council makes a submission on the draft SEPP prior to the close of the public exhibition period in September 2020.

### **RECOMMENDATION**

---

#### **That Council:**

- 1. Endorse the draft submission in Attachment 2 and forward to the Department of Planning, Industry and Environment; and**
- 2. Delegate authority to the General Manager to finalise the draft submission, including any minor typographical or editorial changes.**

### **REPORT**

---

The NSW Government has three State environmental planning policies (SEPPs) in place to facilitate the delivery of diverse housing types that meet the needs of the people of NSW. These SEPPs (the Seniors SEPP, the Affordable Rental Housing SEPP and SEPP 70) have been in place for some time and some provisions need to be amended or updated to reflect current conditions and community expectations.

Additionally, the housing needs and preferences of the community have changed over time and will continue to change. The NSW Government has identified the importance of ensuring planning policies facilitate housing types in response to these changes.

In response to these considerations, a draft Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP) has been prepared and is currently on public exhibition. It proposes a number of changes, including:

- to consolidate three current SEPPs related to housing: the Seniors SEPP; Affordable Rental Housing SEPP, and SEPP 70;

- to update a number of planning provisions in response to community and council concerns about boarding houses and seniors housing development;
- to introduce three new definitions: build-to-rent housing, student housing, and co-living;
- a new complying/exempt development pathway to convert an existing dwelling into a group home;
- updates to social housing provisions to support redevelopment of government-owned land with a mixture of social, affordable and private dwellings on a single site; and
- to increase the scope of what Land and Housing Corporation (LAHC) can self-assess (including subdivision of government-owned land), while also increasing the State significant development (SSD) threshold to \$100m.

Key implications for Cumberland City are summarised in the table below, including controls related to boarding houses, planning pathways for group homes, and planning controls for development undertaken by the Land and Housing Corporation.

It is recommended that a submission be prepared by Council to reflect these implications and ensure that potential adverse impacts are minimised as far as possible.

Proposed change/implication	Submission
<p><i>Boarding Houses</i></p> <ul style="list-style-type: none"> <li>• no longer mandated in R2 zones. Council to determine if it is appropriate to maintain its permissibility in R2 zone</li> <li>• Land and Housing Corporation (LAHC) will be able to develop boarding houses on government-owned R2 land regardless of permissibility</li> <li>• 20% FSR bonus will now apply universally to all boarding houses, regardless of existing maximum FSR</li> <li>• amended definition, requiring boarding houses be managed by a registered not-for-profit community housing provider (CHP)</li> </ul>	<p>Support the approach to no longer mandate boarding houses in R2 zones.</p> <p>Concerns that the LAHC will be able to continue to develop boarding houses on government-owned land in the R2 zone, even if it is prohibited in this zone under the draft SEPP.</p>
<p><i>Group Homes</i></p> <ul style="list-style-type: none"> <li>• exempt/complying pathway for converting existing dwellings to a group home proposed</li> </ul>	<p>Concerns that the exempt / complying pathway could be problematic as certain factors, such as pressure on local infrastructure and amenity, cannot be properly assessed outside the DA process.</p>

Proposed change/implication	Submission
<p><i>Land and Housing Corporation (LAHC)</i></p> <ul style="list-style-type: none"> <li>LAHC to self-approve any residential developments up to 60 dwellings (increased from 20); maximum height of 8.5m still applies</li> <li>reduced car parking rates to apply to all dwellings, social housing or otherwise may result in flow on effects on on-street parking)</li> <li>affordable housing in the form of manor houses and terraces to also be subject to 20% FSR bonuses</li> <li>subdivision of government-owned land permitted without consent</li> <li>lift access exemption (as per Seniors SEPP) to apply to all seniors housing delivered by or on behalf of LAHC, including dwellings not used for the purpose of social housing</li> <li>Increased SSD threshold for LAHC projects from \$30m to \$100m</li> </ul>	<p>Concerns of the increase in self-approval from 20 to 60 dwellings without adequate Council involvement formalised in the process. This could lead to reduced transparency and potential inconsistencies in the planning approval process.</p> <p>Concerns that LAHC developments with mixed land uses and ownership models could reduce car parking requirements in areas away from quality public transport services.</p> <p>Note that increased threshold for LAHC projects from \$30m to \$100m may increase the number of LAHC DAs considered by Council.</p>
<p><i>Build to rent</i></p> <ul style="list-style-type: none"> <li>Introduction of <i>build to rent</i> as a housing type</li> </ul>	<p>Note that this has potential to provide long lasting community benefits, with greater housing choice for tenants who would have access to high-quality dwellings in a stable rental environment</p>

## COMMUNITY ENGAGEMENT

The exhibition of draft Housing Diversity SEPP commenced in July 2020 and ends in September 2020. It is understood that feedback on the draft SEPP will inform the finalisation of the proposed new SEPP, and there is unlikely to be any further community engagement on this matter.

## POLICY IMPLICATIONS

The proposal seeks the consolidation of three SEPPs and updating of the planning controls will provide an updated and consolidated policy framework for provision of diverse housing types. The proposal would also continue to support the delivery of housing in the Cumberland area, consistent with the directions outlined in Cumberland 2030: Our Local Strategic Planning Statement, Cumberland Local Housing Strategy and draft Cumberland Affordable Housing Strategy.

## RISK IMPLICATIONS

There are minimal risk implications for Council associated with this report. The public exhibition process enables Council to make a submission and to raise any relevant issues that can be addressed as part of the project.

## FINANCIAL IMPLICATIONS

---

There are no financial implications for Council associated with this report.

## CONCLUSION

---

This report provides an overview of the draft Housing Diversity SEPP, and the attached submission outlines key implications identified by Council officers. It is recommended that Council forward the submission to the Department of Planning, Industry and Environment for consideration as part of the draft SEPP review process.

## ATTACHMENTS

---

1. Explanation of Intended Effect (EIE) for a new Housing Diversity SEPP July 2020 (DPIE) [↓](#)
2. Draft Cumberland City Council Submission - Draft Housing Diversity SEPP [↓](#)



DOCUMENTS  
ASSOCIATED WITH  
REPORT C09/20-538

Attachment 1

Explanation of Intended Effect  
(EIE) for a new Housing Diversity  
SEPP July 2020 (DPIE)





Planning,  
Industry &  
Environment

## Explanation of Intended Effect for a new Housing Diversity SEPP

---

July 2020



NSW Department of Planning, Industry and Environment | [dpie.nsw.gov.au](http://dpie.nsw.gov.au)

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#### **More information**

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## Introduction

As NSW recovers from the COVID-19 pandemic the planning system has an important role to play.

Changes have already been made to fast-track planning projects and allow for new construction jobs and construction work to continue where possible.

Moving forward, there will be a focus on ensuring that the planning system supports the recovering economy, particularly through facilitating new projects which make a significant contribution to the retention and creation of jobs.

With a growing and ageing population, the housing needs and preferences of the community have changed over time and will continue to change. The Government is committed to ensuring that there is an adequate supply of new dwellings that are affordable, well-designed and located in places that people want to live. To deliver on this commitment we need to provide more certainty for all stakeholders in the planning system and ensure that there is a strong social housing sector to provide for the State's most vulnerable residents.

Currently, in NSW, around 400,000 people are directly employed in building and construction industries. More broadly, the work of almost 1 in 4 workers in NSW is linked to jobs in construction, in planning and in development processes. As NSW recovers from the COVID-19 pandemic, it will be important to ensure that the planning policies that support construction jobs, including for housing construction jobs, are fit-for-purpose.

The Government has three State environmental planning policies (SEPPs) in place to facilitate the delivery of diverse housing types that meet the needs of the people of NSW. These SEPPs (the Seniors SEPP, the Affordable Rental Housing SEPP and SEPP 70) have been in place for some time and some provisions need to be amended or updated to reflect current conditions and community expectations. Additionally, the housing needs and preferences of the community have changed over time and will continue to change. It is important to ensure that planning policies facilitate housing types in response to these changes.

The Department of Planning, Industry and Environment (the Department) is proposing to prepare a new SEPP to consolidate and update the Government's housing-related policies. It is proposed to introduce three new land use terms to help facilitate housing projects that will stimulate economic recovery. Build-to-rent (BTR) housing in particular has been identified as an opportunity for stimulus, and this policy establishes a planning pathway to support developments of this type. In addition, it is proposed to amend some planning provisions, particularly relating to boarding house and seniors housing development.

These changes are being introduced as part of the NSW Government's response to the COVID-19 pandemic in order to accelerate projects that support employment and economic development. The changes to the planning system will also provide greater certainty for all stakeholders.

## Executive Summary

The following information is provided as an **Explanation of the Intended Effect** under section 3.30 of the **Environmental Planning and Assessment Act 1979 (the Act)** for the proposed draft **State Environmental Planning Policy (Housing Diversity) 2020 (the new SEPP)**.

This Explanation of Intended Effect (EIE) provides an overview and background into what is proposed to be included in the new SEPP.

In summary it is proposed that the new SEPP will:

- Consolidate three existing, housing-related SEPPs:
  - *State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP)*;
  - *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP)*; and
  - *State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes) (SEPP 70)*.
- Introduce new definitions into the Standard Instrument – Principal Local Environmental Plan (Standard Instrument LEP) for build-to-rent housing, student housing and co-living developments.
- Amend the boarding house provisions to:
  - remove the requirement for boarding houses to be mandated within the R2 – Low Density Residential zone;
  - amend the floor space ratio (FSR) bonus for boarding house development to a standard 20%; and
  - include a requirement for affordability of boarding house developments.
- Amend the provisions of the ARHSEPP to:
  - ensure that councils can continue to mitigate the loss of existing affordable housing by requiring monetary contributions;
  - provide a quicker and easier process to allow an existing dwelling to be used as a group home; and
  - allow councils to set the maximum size for a secondary dwelling in a rural zone.
- Amend the Seniors SEPP to:
  - clarify how the SEPP applies to land being used for the purposes of a registered club;
  - update the provisions of Schedule 1 – Environmentally sensitive land to align with current legislative and planning conditions;
  - amend the ‘location and access to facilities’ provisions so that point-to-point transport such as taxis, hire cars and ride share services cannot be used for the purpose of meeting the accessibility requirements;
  - extend the validity of a SCC to 5 years, provided that a development application is lodged within 12 months of the date on which the SCC is issued; and
  - clarify that development standards in a local environmental plan prevail to the extent of any inconsistency with the SEPP.
- Amend the Seniors SEPP, the ARHSEPP and the *State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)* to support the delivery of social housing by the NSW Land and Housing Corporation (LAHC) on government-owned land.

## Background

### Changing housing needs in NSW

In 2016, the population of NSW was 7.7 million and this is expected to increase to 10.5 million by 2041. In Greater Sydney, the population is expected to grow to 7.1 million by 2041. This population growth will need to be matched with increased housing supply so that all members of the community have access to accommodation that meets their needs.

The population of NSW is ageing as well as growing. In 2016, over 2 million people in NSW were aged 55 or over. By 2036, the number of over 55s is projected to increase to more than 3.1 million.<sup>1</sup> This means that demand for seniors housing in well-located areas, as well as the demand for smaller and more accessible homes, will continue to grow.

Housing affordability is another major issue across NSW, but particularly in the Sydney metropolitan area. Home ownership rates in NSW are falling and there is a widening gap between dwelling prices and incomes. In the rental sector, households are needing to spend a greater proportion of their income on housing.

It is clear the housing needs and preferences of the community have changed over time and will continue to change. The Government's housing-related SEPPs have been in place for some time and some provisions need to be amended or updated to reflect current conditions and community expectations.

In recent months, many people have found themselves unexpectedly out of work due to the COVID-19 health and economic crisis. This has led to increased housing insecurity for many people.

The Department is reviewing the Government's housing-related SEPPs to ensure they are fit-for-purpose. It is proposed that the new SEPP will incorporate updated planning provisions for boarding houses, group homes, and seniors housing.

As part of its response to the COVID-19 crisis, the Department also is planning to introduce new land use terms to ensure that the residential development industry is well-placed to lead the State's economic recovery.

The new housing types that are proposed to be introduced as part of the new SEPP are designed to attract institutional investment and provide for a more stable rental sector. Additionally, they would also support a significant number of jobs during the planning and construction phases and lead to long lasting community benefits as a result of increased housing supply and diversity.

### Current State environmental planning policies that facilitate diverse and affordable types of housing

The key State policies that currently facilitate the supply of diverse and affordable housing types are:

- *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP);
- *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004* (Seniors SEPP); and
- *State Environmental Planning Policy - Affordable Housing (Revised Schemes)* (SEPP 70).

Further detail about how these SEPPs work, as well as a summary of recent reviews into the effectiveness of certain provisions of these SEPPs, is set out in **Attachment A**.

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<sup>1</sup> Department of Planning and Environment (2016), *2016 New South Wales State and Local Government Area population and household projections*. Sydney, NSW.



### *State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP)*

The ARHSEPP was introduced in 2009 to facilitate the increased supply and diversity of affordable rental and social housing in NSW. The ARHSEPP also aims to maintain and mitigate the loss of existing affordable housing.

The ARHSEPP provides a consistent assessment regime (including expanded permissibility, FSR bonuses and reduced car parking rates) to facilitate delivery of the following types of affordable rental housing:

- in-fill affordable housing which must be used for affordable housing for 10 years;
- secondary dwellings;
- boarding houses;
- supportive accommodation;
- residential flat buildings developed by social housing providers, public authorities and joint ventures with the Land and Housing Corporation (LAHC);
- residential development carried out by the LAHC; and
- group homes.

### *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP)*

The Seniors SEPP aims to increase the supply and diversity of residences that meet the needs of seniors or people with disability. It defines seniors as people aged 55 or over, people living at a facility where residential care under the meaning of the *Aged Care Act 1997* (Cth) is provided, or people assessed as eligible to occupy aged housing.

Under the Seniors SEPP, seniors housing is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability and includes:

- residential care facilities (high-care accommodation with on-site services);
- hostels (low-care accommodation with on-site services);
- self-contained dwellings (serviced self-care housing);
- self-contained dwellings (un-serviced in-fill self-care housing); or
- a combination of the above.

The Seniors SEPP facilitates new seniors housing development by setting permissibility at the State level and providing less stringent planning requirements than would otherwise apply to other forms of housing.

The Seniors SEPP also incorporates provisions for the issue of a site compatibility certificate (SCC) in a range of different situations. If an SCC is issued, a developer can submit a development application for seniors housing to the local council where it would otherwise be prohibited on the site.

### *State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes) (SEPP 70)*

SEPP 70 identifies local government areas (LGAs) that have a need for affordable housing. According to section 7.32 of the Act, identification in a SEPP is required before a council can implement an affordable housing contribution scheme.

In February 2019, SEPP 70 was amended to include all NSW councils. This amendment effectively removed the requirement of entering an LGA into SEPP 70, thereby expediting implementation of affordable housing contribution schemes across the State. Affordable housing contribution schemes



are council-led documents that set out how, where and at what rate affordable housing contributions may be collected by councils.

## New Housing Diversity SEPP

### Aims of the new Housing Diversity SEPP

The proposed new SEPP aims to deliver a planning framework that:

- will assist the State's economic recovery following COVID-19;
- consolidates existing State level housing-related planning provisions into a single instrument;
- is in a format capable of being expanded and amended as future needs may require; and
- facilitates the delivery of housing that meets the needs of the State's growing population.

### Key components of the new Housing Diversity SEPP

The EIE sets out a proposal for the new SEPP that will provide greater clarity and certainty for the residential development sector in the context of the post-pandemic recovery.

The first element of the EIE is a proposal to consolidate the ARHSEPP, the Seniors SEPP and SEPP 70. This is part of the NSW Government's program to streamline the planning system by reducing the number of state policies.

It is proposed that the new SEPP will introduce definitions and planning provisions for three new types of housing, being:

- build-to-rent housing;
- purpose built student housing; and
- co-living.

This will provide new opportunities for institutional investment in residential development in NSW, creating jobs in planning, construction, and on-going management.

In the context of feedback from councils and communities, as well as in the context of recent review of some provisions of the Government's housing-related SEPPs, this EIE also sets out a number of changes that are proposed to be made to the ARHSEPP and Seniors SEPP provisions, including:

- requiring boarding houses to be affordable;
- removing the requirement for boarding houses to be mandated within the R2 – Low Density Residential zone;
- amending the FSR bonus for boarding house development to 20%;
- updating the provisions relating to retention of existing affordable housing;
- clarify how the SEPP applies to land being used for the purposes of a registered club;
- update the provisions of Schedule 1 – Environmentally sensitive land of the Seniors SEPP to align with current legislative and planning conditions;
- amend the 'location and access to facilities' provisions so that point-to-point transport such as taxis, hire cars and ride share services, cannot be used for the purpose of meeting the accessibility requirement;
- amend the SEPP provisions to clarify that development standards in a local environmental plan prevail to the extent of any inconsistency with the SEPP; and
- introduce provisions in the new SEPP so that a SCC is valid for 5 years, provided that a development application is lodged within 12 months of the date on which the SCC is issued.

It is also proposed to make a number of changes to the ARHSEPP and Seniors SEPP to facilitate the delivery of new housing by or on behalf of LAHC on government-owned land. The proposed changes include:

- facilitating the redevelopment of government-owned land for two storey residential development, that may comprise elements of social, affordable and private housing, by increasing the number of dwellings in a development that LAHC can self-assess from 20 to 60;
- extending density bonuses and car parking concessions, that currently apply under the ARHSEPP and Seniors SEPP, to all components, including the private housing components, of a residential development undertaken by or on behalf of LAHC;
- clarifying that LAHC can carry out any type of residential accommodation, including manor houses and terraces, that is permissible under an environmental planning instrument;
- extending the density bonus for in-fill affordable housing under Division 1 of the ARHSEPP to include more land outside the Sydney region; and
- allowing LAHC to self-assess applications for subdivision of government-owned land.

It is also proposed to further streamline the assessment of LAHC projects by simplifying the pathway for major projects, such as those within the Communities Plus program, to become State Significant Development (SSD) under the SRD SEPP.

The existing provisions of SEPP 70 are proposed to be transferred to the new SEPP in their current form.

It is proposed to review the provisions of the new SEPP within 24 months of its introduction to ensure they are functioning as intended.

# Introducing new housing types

The Department is proposing to introduce three new definitions in the Standard Instrument LEP that will improve stability in the rental sector and provide more clarity for all stakeholders. Build-to-rent housing will provide large scale apartment developments with long term leases and on-site management. A new definition and planning provisions for student housing will ensure that there is adequate, appropriately designed and located accommodation for tertiary students. Co-living developments will provide studio-type accommodation, supplemented by access to communal facilities.

The following table sets out key requirements for the new housing types, as well as the requirements for boarding houses.

**Table 1 Comparison of development standards for new housing types**

	Build-to-rent housing	Co-living	Student housing	Boarding houses
<b>Tenant</b>	No restriction for market rent dwellings	No restriction	Students	Eligibility based on income
<b>Affordable</b>	Local provisions apply	No minimum requirement	No minimum requirement	Yes – 100%
<b>Tenancy</b>	3 years or more	Minimum 3 months	No minimum	Minimum 3 months
<b>Communal living area</b>	New design guidance will be developed	Required	Required	Required
<b>Room/Apartment size</b>	New design guidance will be developed	30 - 35 m <sup>2</sup>	10 m <sup>2</sup>	12 - 25 m <sup>2</sup>
<b>Minimum car parking provision</b>	0.5 spaces per dwelling	0.5 spaces per room	No minimum requirement	0.5 spaces per room, or 0.2 spaces for social housing providers

## Build-to-rent housing

### Introduction

In recognition of the growing need for secure, long term rental options and support new investment, especially in the recovery phase of COVID-19, the Government is proposing to incentivise the delivery of build-to-rent (BTR) housing through the NSW planning system.

BTR housing is purpose-built rental housing, held in single ownership and professionally managed. It is designed to attract institutional investment and provide for a more stable rental sector.

BTR housing has been an established sector in the United States over several decades. It has also recently experienced rapid growth in the United Kingdom.

BTR housing is generally:

- high density development;
- situated in well-located areas, close to transport and amenity;
- funded by larger-scale institutional investors; and
- focused on providing a good experience for tenants through the provision of on-site services and facilities, professional management and long-term leases.

BTR housing has the potential to provide long lasting community benefits, with greater housing choice for tenants who would have access to high-quality dwellings, in a stable rental environment. Increased rental security may also have wider social and economic benefits, with tenants better able to establish themselves in a community.

There are currently no impediments in the NSW planning system to the development of new housing for rental purposes. However, given the potential social and economic benefits of expanding the local BTR industry, the NSW Government is seeking to provide more certainty for this type of development with a proposed new definition and specific planning provisions. The Government is encouraging the development of build-to-rent housing as it responds to the need for more rental housing during the recovery from COVID-19 and would generate more construction jobs.

## Proposed definition

It is proposed that the definition for '*Build-to-rent housing*' would be contained within the Standard Instrument – Principal Local Environmental Plan and would refer to a building or place that:

- contains at least 50 self-contained dwellings that are offered for long term private rent;
- is held within a single ownership;
- is operated by a single management entity; and
- includes on-site management.

## Proposed planning provisions

### Locational requirements

It is proposed to make BTR housing a compulsory permitted use in the R4 - High Density Residential, B3 – Commercial Core, B4 - Mixed Use and B8 – Metropolitan Centre zones. It will also be permitted in R3 – Medium Density Residential where residential flat buildings are permitted. Councils could make BTR housing permissible in other land use zones through amendments to their LEPs.

### State significant development

It is proposed that BTR housing would be assessed as State significant development (SSD) where the development has a capital investment value of \$100 million or more. It is proposed that developments within the City of Sydney local government area would be excluded from the SSD designation and would continue to be assessed by the City.

It is proposed that BTR housing in regional areas would be assessed as SSD where the development has a capital investment value of \$50 million or more.

### Design Guidance

Generally, consent authorities, when assessing development applications for BTR housing projects, should be guided by the design quality principles in *State Environmental Planning Policy No 65 - (Design Quality of Residential Apartment Development)* (SEPP 65). The Department will develop specific advice about those parts of SEPP 65 that are particular to the build-to-rent typology.



## Development standards

It is proposed to allow councils to determine the relevant height and Floor Space Ratio (FSR) controls for BTR housing through their LEPs.

It is proposed to apply a minimum 0.5 car parking spaces per dwelling for BTR housing. Where a lower maximum parking rate applies under a council's development control plan, this rate could be applied to BTR housing.

BTR housing would be subject to minimum lease terms and would not be available for short-term rental accommodation.

BTR housing is a different investment product to traditional residential flat buildings. Because it is held in single ownership, it will be much easier for the asset to be recycled at a later date. With this in mind, it is proposed that it would not be possible to strata subdivide a BTR housing development for the first 15 years and to prohibit subdivision in a B3 – Commercial Core zone, in perpetuity.

The Government is seeking feedback on the appropriate mechanisms that could be incorporated into the SEPP to manage the transition from BTR housing to a strata-subdivided apartment development. For example, long-term residents could be offered a right of first refusal to acquire a unit at a fair market price or a minimum percentage of dwellings for sale could be required to be retained as affordable housing.

## BTR housing in regional areas

The Government is seeking feedback on appropriate provisions for BTR housing in regional areas. It is expected that these developments would generally be of a smaller scale and could take the form of multi-dwelling housing or terraces rather than apartments.

# Purpose-built student housing

## Introduction

Having an adequate supply of well-located and purpose-built student housing is critical in supporting the higher education sector in NSW. It can also assist in alleviating demand on other affordable housing types in proximity of major universities. This type of housing could also provide emergency accommodation in a situation such as COVID-19 when there is significantly reduced demand from international students.

Under the current planning framework, student housing does not have a separate definition and the boarding house provisions of the ARHSEPP, including their incentives, are used to develop student housing. Councils and communities have raised concerns with the use of boarding house provisions in the ARHSEPP to facilitate student housing developments. The issues raised include the parking rates, compatibility with local character and lack of affordability.

Meanwhile, demand for specialised student accommodation continues to grow in line with the expansion of the international student population. Over the past decade the number of international students studying at Australian universities has increased significantly, and tertiary education has become one of Australia's largest exports. A number of student housing providers have advised the Department that the planning system does not currently facilitate the type of accommodation required to meet the needs of the international students.

In response to council and industry feedback, the Government is proposing to introduce a new definition and planning provisions for student housing.



## Proposed definition

It is proposed that the definition for 'student housing' would be contained within the Standard Instrument LEP and would refer to a building that:

- provides accommodation and communal facilities principally for students enrolled to study at an education establishment during teaching periods; and
- may incorporate some fully self-contained dwellings.

It is noted that under the *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* (Education SEPP), development for the purpose of residential accommodation for students associated with a school or university may be carried out within the boundaries of an existing school or university respectively.

To improve consistency across environmental planning instruments, it is proposed that both the new SEPP and the Education SEPP would rely on the proposed new Standard Instrument LEP definition of 'student housing' in the future.

## Proposed planning provisions

It is not proposed to make student housing a compulsory permitted use in any of the land use zones. Universities across the State have widely varying land use contexts and it is proposed that councils will be able to determine permissibility for this use through their LEPs. The Government is seeking feedback from stakeholders about the best way to incorporate locational requirements for student housing in environmental planning instruments.

The new SEPP could include development standards for student housing to apply across the State. The proposed key development standards are set out in the following table.

**Table 2 Proposed key development standards for student housing**

Development standard	Proposed standard	Comment
Height of buildings	In accordance with the relevant LEP	Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.
Floor space ratio	In accordance with the relevant LEP	Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.
Car parking	No minimum spaces required	Developers can choose to provide on-site car parking but there will be no minimum number of spaces required and a consent authority will not be able to refuse an application on the basis of car parking.  It is expected that councils will permit student housing in areas that are in close proximity to educational establishments and the demand for on-site parking will be minimal.
Bicycle parking	1 space minimum per 3 bedrooms	The minimum bicycle parking rate will be a non-discretionary, 'must not refuse' provision.
Motorcycle parking	1 space minimum per 5 bedrooms	The minimum motorcycle parking rate will be a non-discretionary, 'must not refuse' provision.

Room size	Minimum 10 m <sup>2</sup>	<p>The minimum room size is based on similar standards in other jurisdictions and reflects current industry practice, which is to provide a range of room options in a single development, including rooms that have an area of less than 10 m<sup>2</sup></p> <p>The proposed 10 m<sup>2</sup> standard will be a discretionary standard. This will allow developers that wish to, to demonstrate that a smaller area has adequate internal amenity and that shared facilities are available to compensate for the smaller room size.</p>
Communal area (indoor)	15 m <sup>2</sup> per 12 students	<p>High quality indoor communal space must be provided to meet the study, social, and religious needs of students. Depending on the size of the development, multiple rooms could be appropriate.</p>
Communal area (outdoor)	Consider access to open space	<p>In locations that are within 400 m of the relevant university, it may be possible to rely on the open space that is provided on campus. In other locations the new SEPP will recommend 2.5 m<sup>2</sup> of outdoor space per student.</p>

Design guidelines for student housing could also be developed to accompany the new SEPP. The design guidelines would address issues such as built form, internal and external amenity, storage, solar access, natural ventilation, visual and acoustic privacy.

The Department will carefully monitor outcomes from the introduction of this new use, and the associated development standards, to ensure that new developments are meeting the needs of the student population and that local impacts are acceptable.

## Co-living

### Introduction

As with student housing, the boarding house provisions of the ARHSEPP are currently being used to develop co-living developments, otherwise known as 'new generation' boarding houses. These are developments that share many features with traditional boarding houses, such as small private rooms for one or two people and access to communal living areas and other facilities. However, new generation boarding rooms are typically self-contained, with private bathroom and kitchenette facilities. The proposed introduction of an affordability requirement for boarding house development as set out above in this EIE would mean that this type of housing is no longer facilitated by the planning system.

Evidence suggests that there is demand for this type of small and self-contained dwelling – particularly when located in close proximity to reliable public transport and services. The demand for co-living is driven by affordability issues and growth in single person households. The demand is also driven by changing preferences, with many people willing to trade size of living spaces for access to desirable locations.

In the current context, it is critical that the planning system continues to facilitate the delivery of diverse rental housing options to support people who are facing accommodation insecurity as a result of COVID-19. To ensure the availability and diversity of rental housing options, the Government is proposing to introduce a new definition and planning provisions for co-living developments.

## Proposed definition

It is proposed to introduce a new definition for co-living in the Standard Instrument LEP would refer to a building held in single ownership that:

- provides tenants with a principal place of residence for 3 months or more;
- includes on-site management;
- includes a communal living room and may include other shared facilities, such as a communal bathroom, kitchen or laundry; and
- has at least 10 private rooms, some or all of which may have private kitchen and/or bathroom facilities, with each private room accommodating not more than two adults.

## Proposed planning provisions

It is proposed to make co-living apartments a mandatory permitted use wherever residential flat buildings are currently permitted. This would generally include the R4 – High Density Residential, and B4 – Mixed Use zones, and would also include R3 – Medium Density Residential zones in some LGAs. The new SEPP would include development standards for co-living developments to apply across the State. The proposed key development standards are set out in the following table:

**Table 3 Proposed key development standards for co-living**

Development standard	Proposed standard	Comment
Height of buildings	In accordance with the relevant LEP	Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.
Floor space ratio	In accordance with the relevant LEP	Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.
Car parking	0.5 spaces per room	<p>It is proposed to include car parking as a non-discretionary 'must not refuse' provision. This would allow councils to approve a co-living development with less parking when appropriate.</p> <p>In addition, should councils choose to prepare local plans with reduced car parking for co-living developments, it is intended these would prevail.</p> <p>It is noted that the demand for car parking varies significantly between different areas and it may be appropriate to have different car parking rates depending on the locational context, such as proximity to a train station.</p> <p>Stakeholder feedback is sought on appropriate car parking rates for this land use.</p>

Room size	30-35 m <sup>2</sup>	It is proposed that co-living development would contain rooms would sit between boarding rooms and studio apartments in terms of size.
Strata subdivision	Not permitted	Co-living developments would be held in single ownership like a new generation boarding house.
Communal living space	Minimum 20 m <sup>2</sup> , + 2 m <sup>2</sup> per room above 10 rooms	This would provide for adequate internal communal spaces based on the number of rooms in a development.
Private open space	4 m <sup>2</sup> per room	This is the same as the ADG requirement for studio apartments.
Communal open space	25% of site area	It is proposed to provide for a reduction in communal open space where all dwellings have private open space that exceeds the minimum requirements.

Building envelope controls for residential flat buildings under the relevant DCP could apply.

Design guidelines for co-living may be developed to accompany the new SEPP. The design guidelines could address issues such as built form, internal and external amenity, storage, solar access, natural ventilation, visual and acoustic privacy.

The Department would carefully monitor outcomes from the introduction of this new land use, and the associated development standards to ensure that new developments are meeting the needs of occupants and that local impacts are acceptable.

# Updating existing provisions

## Proposed changes to the boarding house provisions of the ARHSEPP

### The boarding house definition is to be amended to require boarding house development to be affordable

The boarding house provisions introduced by the ARHSEPP in 2009 were intended to provide for both traditional boarding houses as well as 'new generation' boarding houses with self-contained rooms in a compact and affordable form. It was expected that 'new generation' boarding rooms would be more affordable than other similar residential development in the same area, due to their small size and shared facilities.

The ARHSEPP has facilitated both traditional, and 'new generation' boarding houses as well as large numbers of boarding house rooms for student housing, particularly in areas close to tertiary education facilities.

Since the introduction of the ARHSEPP, councils and communities have raised concerns about the boarding house provisions in the ARHSEPP. Key community and council concerns have centred around the lack of affordability of boarding house rooms; the use of the boarding house provisions to develop student housing; the excessive scale and bulk of some boarding house developments; the compatibility of boarding house development with low-density residential areas; and the clustering of boarding house development in certain areas.

In response to on-going concerns regarding boarding house developments, the Department worked with a group of councils during July and August 2019, to prepare advice to the Minister on issues associated with the boarding house provisions of the ARHSEPP. The report prepared by the Council Boarding House Working Group made 14 recommendations. The report is now available on the Department's website.

The key recommendation of the Working Group was that the definition of 'boarding house' should be amended to include a requirement that boarding house rooms are affordable.

The existing and proposed definitions are set out in the following table:

**Table 4 Existing and proposed definitions for boarding house**

Existing definition	Proposed definition
<p><b>boarding house</b> means a building that—</p> <ul style="list-style-type: none"> <li>(a) is wholly or partly let in lodgings, and</li> <li>(b) provides lodgers with a principal place of residence for 3 months or more, and</li> <li>(c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and</li> <li>(d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,</li> </ul>	<p><b>boarding house</b> means an affordable rental building that—</p> <ul style="list-style-type: none"> <li>(a) provides lodgers with a principal place of residence for 3 months or more, and</li> <li>(b) is managed by a registered not-for-profit community housing provider (CHP), and</li> <li>(c) has some shared facilities, such as a communal living room, bathroom, kitchen or laundry, and</li> <li>(d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or two adult lodgers,</li> </ul>



but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

Note. **Boarding houses** are a type of **residential accommodation**—see the definition of that term in this Dictionary.

but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

Note. *Boarding houses* are a type of *residential accommodation*.

The Government is seeking feedback on whether it would be more appropriate to require rooms in new boarding houses to be rented at affordable rates for a minimum of 10 years, after which they could revert to market rates.

## Boarding house development will not be mandated in the R2 Low Density Residential Zone

The ARHSEPP permits boarding houses in the following zones:

- R1 General Residential;
- R2 Low Density Residential zone (only in 'accessible areas');
- R3 Medium Density Residential;
- R4 High Density Residential;
- B1 Neighbourhood Centre;
- B2 Local Centre; and
- B4 Mixed Use.

Boarding houses are also mandated in these zones in the Standard Instrument LEP, regardless of whether they are in an accessible area or not.

Some councils and communities consider that boarding houses are fundamentally incompatible with other development in the R2 Low Density Residential zone due to their bulk, scale and nature of use. In February 2019, in response to these concerns, the ARHSEPP was amended so boarding houses are limited to a maximum of 12 boarding rooms per site within the R2 zone to better reflect the scale and built form of the surrounding area.

In response to ongoing community concern about boarding houses in low density residential zones, it is now proposed that boarding houses will not be mandated within the R2 zone. While many councils will support this proposal, it is expected that some councils and communities would support the continued permissibility of boarding house development in all or part of the R2 zone in their local areas. If boarding houses are no longer mandated as permissible uses in the R2 zone, these councils would, should they choose to do so, be able to amend their local environmental plans (LEPs) to make boarding houses permissible in the R2 zone in their local areas.

It is proposed that provisions will be included in the new SEPP to ensure LAHC will be able to develop boarding houses on government-owned land in the R2 zone, regardless of whether an LEP allows or prohibits boarding houses in that zone. Where boarding houses are permitted in the R2 zone under an environmental planning instrument, the 12-room limit will continue to apply.

## Proposed 20% FSR bonus for boarding house development

Currently, clause 29 of the ARHSEPP includes a floor space ratio (FSR) bonus on land within a zone in which residential flat buildings are permitted of:

- 0.5:1 if the existing maximum floor space ratio is 2.5:1 or less, or

- 20% of the existing maximum floor space ratio (FSR), if the existing maximum floor space ratio is greater than 2.5:1.

A maximum floor space ratio sets out the total amount of floor area that is permitted, compared to the size of the site. For example, if a site has a total area of 500 m<sup>2</sup> a 0.5:1 FSR would allow for a maximum of 250 m<sup>2</sup> of floor area.

Stakeholders have advised that, in the case of an existing maximum FSR of 2.5:1 or less, when the existing FSR is low, for example 0.5:1, the 0.5:1 bonus effectively doubles the allowable FSR and can contribute to excessive bulk and scale of boarding house development. For example, in an R3 zone where residential flat buildings are permissible with an existing maximum 0.7:1 FSR, the current bonus would allow boarding house development to have an FSR of 1.2:1, which is significantly higher than that of other development. In response to this issue, the Council Boarding House Working Group recommended that the existing FSR bonus be changed to a flat 10% (or potentially another percentage) bonus above existing maximum FSR, regardless of whether the existing maximum FSR is above or below 2.5:1.

The Department has considered the impact of the proposed reduction in FSR bonus to 10% on the viability of boarding house development. It is proposed to introduce a flat 20% FSR bonus above existing maximum FSR, regardless of whether the existing maximum FSR is above or below 2.5:1.

The proposed amendment will not have any impact on land with an existing maximum FSR greater than 2.5:1, as the ARHSEPP currently provides a 20% FSR bonus for such land. The proposed amendment will affect land with an existing maximum FSR of 2.5:1 or less, as it is proposed to reduce the FSR bonus from 0.5:1 to a flat 20% for such land. It should be noted that the bonus only applies in zones where residential flat buildings are permissible.

## Car parking

The ARHSEPP currently provides reduced minimum car parking rates for boarding house development applications lodged by or on behalf of a social housing provider. It is proposed to maintain these provisions in the new SEPP. It is noted that the car parking rate is a standard that cannot be used to refuse consent. Therefore, a council would be able to accept a lower rate proposed under a development application if it was considered appropriate in the circumstances.

## Proposed amendments to ARHSEPP provisions

It is proposed to update some provisions of the ARHSEPP when they are transferred to the new SEPP, including provisions relating to group homes and provisions relating to Part 3 – Retention of existing affordable housing.

### Group homes

Group homes are an important accommodation choice for people with a disability or people who are socially disadvantaged. One of the aims of the ARHSEPP is to facilitate the development of this type of housing. The ARHSEPP includes a complying development pathway for development of new group homes. However, there is currently no exempt or complying pathway for converting an existing dwelling to a group home. A change of use from an existing dwelling to a group home currently requires development consent from the local council. This adds additional cost and can cause lengthy delays due to varying development assessment timeframes.

The Government is proposing to introduce a quicker and easier process to allow an existing dwelling to be used as a group home.

## Amendment to Part 3 of the ARHSEPP

Part 3 of the ARHSEPP requires a council to consider whether there will be or is likely to be any reduction in affordable housing as a result of a proposed development. A reduction in the availability of affordable housing could occur through the demolition or strata subdivision of an existing building that contains low-rental dwellings.

Low rental dwelling is defined in the SEPP as follows:

***low-rental dwelling** means a dwelling that (at any time in the 24 month period prior to the lodgment of a development application to which this Part applies) was let at a rental not exceeding the median rental level for that time (as specified in the Rent and Sales Report) in relation to a dwelling of the same type, having the same number of bedrooms and located in the same local government area.*

Part 3 of the ARHSEPP also permits a council to levy monetary contributions as a condition of consent if they consider that approval of a proposed development would result in a loss of affordable housing on the land that is the subject of the application.

Part 3 of the ARHSEPP relates to one of the key aims of the ARHSEPP which is to facilitate the retention and mitigate the loss of existing affordable rental housing.

### Remove reference to 28 January 2000

Clause 49 of the ARHSEPP states that Part 3 of the ARHSEPP only applies to buildings that were low-rental residential buildings as at 28 January 2000. This date was transferred directly from SEPP 10 – *Retention of Low-Cost Rental Accommodation* (SEPP 10), when its provisions were rolled into the ARHSEPP in 2009.

Councils and industry groups have advised the Department that some 20 years later, it can be difficult to establish whether a building was a low-rental residential building as at the 28 January 2000 date because rental data from that period is not readily available.

To respond to these issues and to ensure that Part 3 of the ARHSEPP can be applied as intended to retain or mitigate the loss of existing affordable housing, it is proposed to amend the provisions by removing the reference to the 28 January 2000 date. The proposed SEPP will instead allow a council to levy monetary contributions to offset the loss of dwellings that were low-rental at any time within the 5 years preceding the lodgement of the development application.

Providing a reference point that is linked to the date of lodgement of the development application will ensure the ongoing currency of the clause, limiting the need for it to be updated again in the future.

### Developers to demonstrate whether a building is low-rental

The Department is also aware of concerns with the application of Part 3 of the ARHSEPP following a 2016 court case<sup>2</sup> which found that the onus of proving that a building contained a low-rental dwelling at the relevant date rests with the local council.

To address this concern, it is proposed to clarify in the new SEPP that the onus for providing evidence that a building did not contain a low-rental dwelling at the relevant time rests with the applicant.

## Secondary dwellings in rural zones

The ARHSEPP currently permits secondary dwellings in the residential zones (R1, R2, R3, R4, R5) and does not allow secondary dwelling in any rural zones.

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<sup>2</sup> Hampstead Home Units Pty Limited v Woollahra Municipal Council [2016] NSWLEC 169



Councils can, if they choose to, permit secondary dwellings in rural zones under their local environmental plans. The maximum size of a secondary dwelling is set by Clause 5.4(9) under the Standard Instrument LEP, as follows:

*(9) Secondary dwellings*

*If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater —*

*(a) 60 square metres,*

*(b) [insert number] % of the total floor area of the principal dwelling.*

Clause 5.4(9) is a compulsory provision under the Standard Instrument LEP and means the maximum size of a secondary dwelling is limited to the greater of 60 square metres or a percentage of the total floor area of the principal dwelling. It is noted that under the Standard Instrument LEP, Council has discretion to set the maximum percentage within the clause.

Some councils have raised concerns that these controls don't work well in rural zones and would like to be able to set a maximum size (say 120 square metres) that is not linked to the size of the principal dwelling and would be more appropriate for the rural character of these areas.

It is proposed to amend the ARHSEPP so that councils have the discretion to set a maximum size for secondary dwellings in rural zones.

## Proposed amendments to seniors housing provisions

A Greater Sydney Commission (GSC) investigation into challenges relating to seniors housing development in parts of the metropolitan rural area of Greater Sydney raised concerns with some of the provisions of the Seniors Housing SEPP. It is proposed to incorporate some of the recommendations from the GSC's investigation into the new SEPP as set out below.

### Update definitions in the Seniors SEPP

The definitions in the Seniors SEPP have not been updated in line with the Standard Instrument LEP. This has led to inconsistency in the interpretation and application of the SEPP by developers and consent authorities.

It is considered that a number of definitions should be updated or amended in line with the Standard Instrument LEP to provide a consistent approach with other environmental planning instruments.

It is proposed that the following definitions be updated:

- the definition of 'height';
- the definition of 'people with a disability'; and
- the definition of 'AS 2890'.

### Update Schedule 1 – Environmentally Sensitive Land of the Seniors SEPP

The Seniors SEPP does not apply to land identified in Schedule 1 – Environmentally Sensitive Land. Schedule 1 has not been comprehensively updated since the commencement of the Seniors SEPP in 2004. Over time, especially with the introduction of the Standard Instrument LEP across all councils in NSW, some Schedule 1 terms have become obsolete and others have been the subject of significant debate in the Land and Environment Court.

It is proposed that Schedule 1 will be updated, to be better aligned with current legislation and planning conditions.

## Location and access to facilities provisions

It is proposed to amend the provisions for 'location and access to facilities' in the Seniors SEPP so that point-to-point transport, including taxis, hire cars and ride share services, cannot be used for the purpose of meeting the accessibility requirement.

## Site Compatibility Certificates

### Validity of Site Compatibility Certificates

A site compatibility certificate (SCC) is usually valid for 24 months. Once a SCC has been issued, development consent is sought through a development application lodged with the consent authority, which is usually the local council.

Because of the 24 month timeframe for the validity of a SCC, and the time needed to prepare and assess seniors housing proposals, SCCs sometimes expire before a development application has been determined.

It is proposed to introduce provisions in the new SEPP so that a SCC is valid for 5 years, provided that a development application is lodged within 12 months of the date on which the SCC is issued.

The 5 year timeframe is consistent with the current timeframe for SCCs in Division 5 of the ARHSEPP for development of residential flat buildings by public authorities or social housing providers.

### Registered clubs

Currently, a SCC application can be made on land that is used as an existing registered club. Over the years, there have been a number of SSC applications made on land on which a registered club is no longer viable.

To improve certainty for all stakeholders, it is proposed to reinforce the requirement that if a SCC application is being made on the basis that the land is being used for the purpose of a registered club, the club must be a registered club at the time the SCC application is made.

## Application of local development standards

Currently, the Seniors SEPP allows development for the purpose of seniors housing to be carried out 'despite the provisions of any other environmental planning instrument'. It is proposed to amend the SEPP provisions to clarify that development standards in an LEP prevail to the extent of any inconsistency with the SEPP.

It is proposed that the development standards in the Seniors SEPP could be varied using clause 4.6 of the Standard Instrument LEP, but only to a maximum of 20%.

## Amending the ARHSEPP and Seniors SEPP to support the delivery of social housing

Social housing is secure and affordable rental housing for people on low incomes who are unable to access suitable accommodation in the private rental market. It includes public, community and Aboriginal housing that is managed by Government agencies or community housing providers.



With a growing and ageing population in NSW, the number of people in the community that rely on social housing is expected to increase over the coming years. It is also likely that the COVID-19 pandemic will accelerate the demand for social housing.

The ARHSEPP and the Seniors SEPP contain provisions to facilitate the development of social housing by the NSW Land and Housing Corporation (LAHC) and other social housing providers. The Department has reviewed these provisions to ensure they are fit-for-purpose and aligned with wider Government priorities set out in *Future Directions for Social Housing in NSW* (Future Directions) and the draft Discussion Paper on the NSW Housing Strategy.

Under Future Directions, it is proposed that LAHC will partner with the private sector and community housing providers to deliver new housing projects. This will allow for legacy estates and concentrated areas of disadvantage to be redeveloped as modern and accessible developments containing a mixture of private, affordable and social housing. This approach has been found to reduce the concentration of social housing and stigma, as well as improve community benefits and tenant wellbeing.

The approach articulated in Future Directions was not contemplated at the time the existing housing-related State planning policies were made and it is proposed that changes to the planning provisions used by LAHC will be made as part of the new SEPP to support the new approach.

## Proposed changes to the social housing provisions of the ARHSEPP

### Increase maximum number of dwellings that LAHC can self-assess

LAHC currently uses the ARHSEPP provisions to deliver small scale redevelopments with up to 20 dwellings with a maximum height of 8.5 m (two storeys). The SEPP provides for LAHC to self-assess these types of developments without the need to obtain consent from the local council.

The ARHSEPP currently restricts the maximum number of dwellings on one site that LAHC can self-assess to 20. LAHC has advised that, in order to make its projects socially and economically feasible, the number of dwellings that it can self-assess needs to increase.

To facilitate LAHC's new model, which will contain a mixture of private, affordable and social housing, it is proposed to increase the maximum number of dwellings that LAHC can self-assess to 60. The maximum height of 8.5 m (two storeys) will continue to apply.

### Design guidelines for LAHC development

When self-assessing proposals under the ARHSEPP, LAHC is currently required to consider the *Seniors Living Policy: Urban Design Guidelines for Infill Development*. In addition, LAHC also uses its own design guidelines and standards to assess applications. It is proposed to update these guidelines to better reflect contemporary practice.

### Car parking requirements for LAHC development

It is proposed to apply a minimum car parking rate of 0.5 spaces per dwelling to all dwellings, including social, affordable and private dwellings, in a development undertaken by or on behalf of LAHC, on government-owned land. In so doing, it is proposed that car parking spaces will be distributed across all dwelling types in a development to ensure they are available to social, affordable and private dwellings.

If a lower car parking rate is proposed in a LAHC development, there would be an option to lodge a development application with the relevant local council for a merit-based assessment. In addition, should councils choose to prepare local plans with reduced car parking for LAHC developments, it is intended these would prevail.

## Expand the range of affordable dwelling types that attract a density bonus

Division 1 of Part 2 of the ARHSEPP provides for a density bonus for infill affordable housing. The provisions are currently limited to dual occupancies, multi-dwelling housing and residential flat buildings.

It is proposed to increase the range of development that can be carried out under Division 1 to include other types of residential accommodation, such as manor houses and terraces, where these uses are permitted under another environmental planning instrument. These are dwelling types that were introduced with the Low-Rise Medium Density Housing Code in July 2018.

## Clarify the types of development that LAHC can self-assess

It is proposed to clarify that LAHC can self-assess proposals for any type of residential accommodation that is permitted with consent under another environmental planning instrument. This will include dwellings and dual occupancies permitted under an LEP, as well as manor houses and terraces that are facilitated under the Codes SEPP.

The self-assessment will be limited to development with a height of 8.5m or less.

It is also proposed to clarify that LAHC can self-assess boarding house developments where they are permissible with consent. As noted above, it is proposed to no longer mandate boarding house in the R2 zone. However, boarding houses developed by or on behalf of LAHC with a maximum of 12 rooms would still be permitted in the R2 zone, on Government owned land.

## Update self-approval provisions for social housing

The self-assessment provisions in the ARHSEPP are currently limited to residential development undertaken 'by or on behalf of the Land and Housing Corporation'.

The Government is proposing to include provisions in the new SEPP that will facilitate LAHC's development model, with includes a mixture of social, affordable and private housing. The amended provisions would allow LAHC to self-assess all residential development, including social, affordable and private housing components, proposed to be undertaken by or on behalf of LAHC, on any land owned by the State Government.

These developments would still be limited to the 8.5 m maximum height and the proposed 60 dwelling limit as discussed above.

## Expand density bonus outside the Sydney metropolitan region

Division 1 of Part 2 of the ARHSEPP currently provides a density bonus for new infill affordable housing in well-located, or 'accessible' areas. The SEPP currently distinguishes between land in the Sydney region, and land elsewhere in the State in terms of how to determine which sites are accessible and therefore eligible for the density bonus.

In the Sydney region, the density bonus applies to any land that is in an 'accessible area' as defined in the SEPP. The ARHSEPP defines accessible area as follows:

**accessible area** means land that is within –

- (a) 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or
- (b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or
- (c) 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.

For areas outside the Sydney region the density bonus only applies to land that is within 400 m of land zoned B2 – Local Centre, or B4 – Mixed Use.

There is a significant amount of land in centres outside Sydney that satisfies the definition of ‘accessible area’ within the SEPP but is not located within 400 metres of land zoned B2 – Local Centre, or B4 – Mixed Use. It is therefore proposed to apply the infill affordable housing bonus to all ‘accessible areas’ across the State.

## Subdivision of Government-owned land

To support the delivery of the Government’s social housing program, it is proposed to allow subdivision of Government-owned land without consent.

## Proposed changes to the social housing provisions of the Seniors SEPP

Approximately 20% of LAHC’s property portfolio is housing for seniors and people with a disability, and demand for this type of accommodation is growing. The Seniors SEPP includes planning concessions for social housing, and LAHC has advised that these provisions are critical to the future pipeline of projects that LAHC needs to deliver its housing targets as set out in Future Directions.

### Parking concessions for seniors housing

The Seniors SEPP currently provides reduced minimum car parking rates for development applications lodged by or jointly with a social housing provider.

It is proposed to clarify that the reduced parking rates also apply to the private dwelling component of a seniors housing development carried out by or on behalf of LAHC on government-owned land. It is noted that the car parking rate is a standard that cannot be used to refuse consent. Therefore, a council would be able to accept a lower rate if it was considered appropriate in the circumstances.

The intention of these proposed amendments is to improve the feasibility of delivering new communities under the development model of a mixture of social, affordable and private housing.

### Clarify application of lift access exemption

The Seniors SEPP includes a requirement that new self-contained dwellings for seniors located on or above the second floor must have lift access. However, there is an exemption from the lift access requirement for development applications made by, or jointly with a social housing provider. The lift access exemption provides significant savings in terms of up-front construction and ongoing maintenance costs for LAHC.

It is proposed to clarify that the lift access exemption applies to all seniors housing delivered by or on behalf of LAHC, including any dwellings that are not proposed to be used for the purpose of social housing.

Clarifying this exemption will ensure that LAHC can utilise a diverse range of delivery pathways and maintain flexibility to house people with varying degrees of mobility.

## Proposed changes to the social housing provisions of SRD SEPP

It is proposed to further streamline the assessment of LAHC projects by simplifying the pathway for major projects, such as those within the Communities Plus program, to become State Significant Development (SSD).

It is proposed to amend the SRD SEPP so that projects will become SSD if:

- they are carried out by or on behalf of LAHC; and
- they have a capital investment value of more than \$100 million (increased from \$30 million).

It is proposed to remove the current requirement under the SRD SEPP that LAHC sites need to be mapped on the State Significant Development Sites Map in order to be SSD. This requirement is not providing the flexibility required to deliver projects within the Communities Plus program and creates resources implications for the Department in maintaining the accuracy of the map.

It is proposed that for Government-owned land within the City of Sydney, the Minister for Planning would be the consent authority for projects over \$100 million, with the power to delegate to the City of Sydney, if deemed appropriate.

## Making a submission

The Department welcomes your feedback on this EIE. Your feedback will help us better understand the views of the community and will inform the development of the new SEPP.

You can make a submission on the EIE by completing the online feedback form at:

[www.planningportal.nsw.gov.au/draftplans/on-exhibition](http://www.planningportal.nsw.gov.au/draftplans/on-exhibition)

Submissions may address the issues raised in this EIE or provide additional input regarding the proposed SEPP. The Department will publish a response to submissions following the close of the exhibition period.

You may also contact the Department at any time with feedback on the existing housing-related SEPPs through our website.



## ATTACHMENT A - Current planning policies that facilitate diverse housing

### State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP)

The Government introduced the *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP) in 2009 to facilitate the increased supply and diversity of affordable rental and social housing in NSW.

The aims of the ARHSEPP include:

- a) to provide a consistent planning regime for the provision of affordable rental housing; and
- b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, FSR bonuses and non-discretionary development standards.

The types of affordable rental housing for which the ARHSEPP provides a consistent assessment regime are listed in divisions in Part 2 of the ARHSEPP as:

- in-fill affordable housing which must be used for affordable housing for 10 years;
- secondary dwellings;
- boarding houses;
- supportive accommodation;
- residential flat buildings developed by social housing providers, public authorities and joint ventures with the LAHC;
- residential development carried out by the LAHC; and
- group homes.

Since the introduction of the ARHSEPP, councils and communities have raised concerns about the boarding house provisions in Division 3 of Part 2 of the ARHSEPP. In response to these concerns, the boarding house provisions in Division 3 of Part 2 of the ARHSEPP have been amended 3 times in the past 8 years.

In 2011, Clause 30A of the ARHSEPP was added to the boarding house provisions in Division 3 of Part 2 in response to concerns about the compatibility of boarding house development in the local context. Clause 30A requires a consent authority to consider whether the design of a proposed boarding house development is compatible with the character of the local area.

In June 2018, Clause 29 of the ARHSEPP was amended to increase car parking requirements for boarding house development. Car parking standards for boarding houses, except where provided by a social housing provider, are now 0.5 spaces per room in all locations. This standard is a 'standard which cannot be used to refuse consent'.

In February 2019, Clause 30AA of the ARHSEPP was added to Division 3 of Part 2 to limit boarding house development to 12 boarding rooms within the R2 Low Density Residential zone to ensure boarding house development better reflects the scale, local character and built form of development in this zone.

In response to on-going concerns regarding boarding house developments in certain areas, the Department worked with a group of councils during July and August 2019, to prepare advice to the Minister on issues associated with the boarding house provisions of the ARHSEPP. The report prepared by the Working Group made 14 recommendations regarding the existing boarding house provisions, including five recommendations relating to a possible local approach to planning for



boarding houses. The key recommendation of the Working Group was that boarding houses developed under the provisions of the ARHSEPP should be affordable.

### State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP)

The Seniors SEPP aims to increase the supply and diversity of residences that meet the needs of seniors or people with disability. It defines seniors as people 55 or over, people living at a facility where residential care under the meaning of the *Aged Care Act 1997* (Cth) is provided, or people assessed as eligible to occupy aged housing.

The aims are to be achieved by:

- setting aside local planning controls that prevent appropriate seniors housing development;
- setting out design principles; and
- ensuring applicants provide adequate support services in fringe areas.

The Seniors SEPP applies to land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes provided dwelling houses, residential flat buildings or hospitals are permitted on the land. It also applies to some land zoned for special uses and existing registered club sites.

Under the Seniors SEPP, seniors housing is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability and includes:

- residential care facilities (high-care accommodation with on-site services);
- hostels (low-care accommodation with on-site services);
- self-contained dwellings (serviced self-care housing);
- self-contained dwellings (un-serviced in-fill self-care housing); or
- a combination of the above.

Where seniors housing is proposed to be developed on land adjoining urban land, a SCC is required. SCCs were introduced to ensure proposed seniors housing development is broadly compatible with surrounding land uses before a development application can be lodged.

Subject to certain criteria, a SCC allows a development application for seniors housing to be considered on land where it would otherwise be prohibited.

Stakeholders have raised concerns about the SCC process and the outcomes from this process in the metropolitan rural area on Sydney's fringe. The GSC recently conducted an investigation into the planning challenges and cumulative impacts of seniors housing in the rural areas of The Hills and Hornsby LGAs.

The GSC's final report, *Investigation into the cumulative impacts of Seniors Housing in rural areas of The Hills and Hornsby* (available on the Department's website), was developed in consultation with officers from the Department and council officers from The Hills and Hornsby Councils.

In response to the GSC's findings, the Seniors SEPP has been amended so that applications for SCCs for seniors housing can no longer be lodged for land within the metropolitan rural area, as identified in the Greater Sydney Region Plan.

### State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes) (SEPP 70)

State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes) (SEPP 70) identifies LGAs that have a need for affordable housing. Under section 7.32 of the Act, identification in a SEPP is required before a council can implement an affordable housing contribution scheme.

In February 2019, SEPP 70 was amended to include all NSW councils. This amendment effectively removed the requirement of entering an LGA into SEPP 70, thereby expediting implementation of affordable housing contribution schemes across the State. Affordable housing contribution schemes are council-led documents that set out how, where and at what rate affordable housing contributions may be collected by councils.

The GSC's district plans for Sydney support the development of affordable housing contribution schemes as a mechanism to implement the Commission's housing related objectives. A number of councils have started preliminary work on affordable housing studies that will inform their future housing contribution schemes.

DOCUMENTS  
ASSOCIATED WITH  
REPORT C09/20-538

Attachment 2  
Draft Cumberland City Council  
Submission - Draft Housing  
Diversity SEPP





9 September 2020

Our Ref XXXXXX  
Contact D. Cavallo  
Telephone (02) 8757 9850

Sandy Chappel  
Director, Housing Policy  
Department of Planning, Industry and Environment  
Locked Bag 5022  
PARRAMATTA NSW 2124

Dear Ms Chappel

### **SUBMISSION ON THE DRAFT HOUSING DIVERSITY SEPP**

Thank you for the opportunity to make a submission on the draft Housing Diversity SEPP and its Explanation of Intended Effects. Cumberland City Council recognises the importance of diverse and affordable housing that meets the varying needs of the community and ensuring there is an appropriate planning framework in place.

Please find attached Council's submission on the draft Housing Diversity SEPP, which focuses on the key implications for Cumberland City. Council looks forward to the submission being carefully considered as part of the review process.

If you have any queries or require additional information, please do not hesitate to contact Daniel Cavallo, Director, Environment & Planning on 8757 9850 or [daniel.cavallo@cumberland.nsw.gov.au](mailto:daniel.cavallo@cumberland.nsw.gov.au).

Yours faithfully

Hamish McNulty  
**GENERAL MANAGER**

Encl: Cumberland City Council submission on EIE for proposed Housing Diversity SEPP.

16 Memorial Avenue, PO Box 42, Merrylands NSW 2160  
T 02 8757 9000 E [council@cumberland.nsw.gov.au](mailto:council@cumberland.nsw.gov.au) W [cumberland.nsw.gov.au](http://cumberland.nsw.gov.au)  
ABN 22 798 563 329

*Welcome Belong Succeed*



**CUMBERLAND CITY COUNCIL SUBMISSION ON THE EXPLANATION OF INTENDED EFFECTS (EIE) OF THE DRAFT HOUSING DIVERSITY SEPP**

Cumberland City Council generally welcomes the proposed changes and new consolidated housing diversity SEPP. The rationale for the proposed changes is considered positive and the proposed updates to certain planning controls is considered very timely, particularly given the rapid population growth occurring within the Central City District, and the need to encourage a genuine diversity of housing to meet the diverse and changing needs of many communities.

Cumberland City Council also notes that the proposed changes only reflect housing typologies designed for rental. Council encourages the State government to think about other mechanisms beyond rental tenure, to further address the ever-increasing pressure of Councils, particularly those in Sydney's west, which bear a disproportionate share of metropolitan Sydney's housing affordability challenge.

This submission focuses on the areas of most relevance to Cumberland City.

**CONSOLIDATION OF THREE SEPPs**

The proposed streamlining of the three existing SEPPs into a single SEPP is considered to be a positive change, effectively simplifying the planning controls relating to diverse housing types and consolidating them into a single location, making them easier to use.

**UPDATED HOUSING TYPES AND DEFINITIONS**

The new definitions are considered to be an appropriate inclusion in the planning framework, providing an important update as well as making the assessment of these types of housing developments clearer.

**BOARDING HOUSE PROVISIONS**

While Council understands the need for boarding houses in a broader planning context, the provision of this form of housing at the development application stage has generated significant community objections in low density residential zones.

Council supports the proposed change that boarding houses are no longer a mandatory permissible use in the R2 Low Density Residential zone. Whilst boarding houses are an important housing type, in Cumberland City's experience they are typically of a scale that is better suited to higher density zones. This proposed change will enable individual Councils to determine whether or not boarding houses should be a permissible use in the R2 low density zone.

In addition, concern is raised that Land and Housing Corporation (LAHC) will be able to develop boarding houses on government-owned land in the R2 zone, even if it is prohibited

in the zone under the draft SEPP. A consistent approach for boarding houses in low density residential zones is preferred by Council.

### **SOCIAL HOUSING**

Council continues to work proactively with LAHC within Cumberland City, however concerns are raised regarding some aspects of the draft SEPP.

One concern is with the increase in self-approval from 20 to 60 dwellings without adequate Council involvement formalised in the process. This could lead to reduced transparency and potential inconsistencies in the planning approval process. In addition, it is unclear on the peer review mechanism in the self-assessment of applications, and the role of Council in understanding future development activities in this area.

Another concern is that LAHC developments with mixed land uses and ownership models could reduce car parking requirements in areas away from quality public transport services. Whilst the rationale for the proposed reduced car parking rates to apply to all dwellings, social housing or otherwise, is understood, concern is raised about the potential flow on effects on on-street parking, particularly in areas experiencing sustained and substantial population growth, such as Cumberland City.

The increased threshold for LAHC projects from \$30m to \$100m as a trigger for SSD applications is likely to also have implications for Council workloads in terms of application assessment and available resourcing.

### **GROUP HOMES**

The proposed exempt/complying pathway for group homes could be problematic as certain factors, such as pressure on local infrastructure (especially car parking) and amenity, cannot be properly assessed outside the development application process. It is proposed that existing arrangements that require Council approval be retained.

### **BUILD TO RENT**

The introduction of build to rent is generally supported as it has the potential to provide lasting community benefits, with greater housing choice for tenants who would have access to high-quality dwellings, in a stable rental environment. Council is aware of development in the City where this model is proposed to be implemented.



Item No: C09/20-539

## **AUDIT, RISK AND IMPROVEMENT COMMITTEE - DRAFT MINUTES OF MEETING HELD ON 10 AUGUST 2020**

Responsible Division: Finance & Governance  
Officer: Director Finance & Governance  
File Number: HC-06-03-28  
Community Strategic Plan Goal: *Transparent and accountable leadership*

### **SUMMARY**

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This report presents the Minutes of the Audit, Risk and Improvement Committee meeting held on 10 August 2020 for Council's information.

### **RECOMMENDATION**

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**That Council receive the Draft Minutes of the Audit, Risk and Improvement Committee meeting held on 10 August 2020.**

### **REPORT**

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Council's Audit, Risk and Improvement Committee recently held a meeting on 10 August 2020.

The minutes of this meeting will be formally adopted at the next Ordinary Committee meeting being held in November 2020.

Minutes of this meeting are attached for Council's information.

### **COMMUNITY ENGAGEMENT**

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There are no consultation processes for Council associated with this report.

### **POLICY IMPLICATIONS**

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There are no policy implications for Council associated with this report.

### **RISK IMPLICATIONS**

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There are no direct risks associated with this report. However, the presentation of the meeting minutes to Council provides transparent oversight of Council activities.

## FINANCIAL IMPLICATIONS

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The operations of the Audit, Risk and Improvement Committee are coordinated by the Corporate Services division of Council utilising existing allocated resources. There are no additional financial implications for Council associated with this report.

## CONCLUSION

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The minutes of the Audit, Risk and Improvement Committee meeting are provided to Council for information purposes and to ensure that the review mechanisms of Council operate in an open and transparent manner. It is recommended that Council receive this information.

## ATTACHMENTS

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1. Draft ARIC Minutes - 10 August 2020 [↓](#)



DOCUMENTS  
ASSOCIATED WITH  
REPORT C09/20-539

Attachment 1  
Draft ARIC Minutes - 10 August  
2020



Minutes of the Audit, Risk and Improvement Committee (ARIC) meeting held via Zoom web conferencing, with management attendance in the Cumberland Council Merrylands Administration Building.

**PRESENT**

Mr. Stephen Horne (Chairperson), Mr. John Barbeler and Dr. Jim Taggart.

**ADVISORY MEMBERS IN ATTENDANCE**

Hamish McNulty – General Manager, Richard Sheridan – Director Finance & Governance, Charlie Ayoub – Executive Manager Corporate Services, Belinda Doig – Senior Coordinator Audit Risk & Safety, Steve Kent – BDO Australia, Kenneth Leung – NSW Audit Office, James Winter – Grant Thornton, Shirley Huang – Grant Thornton

**INVITEES IN ATTENDANCE**

Daniel Anderson – Executive Manager Environment and Precincts, Brooke Martin – Executive Manager Recreation and Facilities, Stewart Rodham – Executive Manager Regulatory and Technical Services, Mohamed Gourani – Internal Audit Liaison Officer and Carol Karaki – Senior Coordinator Governance & Civic Events (Minute-Taker)

**IN CAMERA ITEMS**

The Independent External Committee Members, met separately with the General Manager and Internal Ombudsman in-camera separately before the meeting. No matters were referred for noting in the main meeting.

The formal ARIC meeting here opened at 1:36pm.

**ACKNOWLEDGEMENT OF COUNTRY**

The Chairperson opened the meeting with an Acknowledgement of Country.

**APOLOGIES**

Cr. Michael Zaiter

**ABSENT**

Cr. Joseph Rahme

**DECLARATIONS OF INTEREST**

Nil

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**Min.102 ITEMS BY EXCEPTION****RESOLVED**

That item numbers ARIC033/20, ARIC041/20 and ARIC042/20 be moved in bulk as per the recommendations in the reports.

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**Min.103 ITEM ARIC033/20 - LEGAL REPORT****RESOLVED**

That the Audit, Risk and Improvement Committee receive and note this report.

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**Min.104      ITEM ARIC041/20 - QUARTERLY PROCUREMENT AUDIT REPORT****RESOLVED**

That the Audit, Risk and Improvement Committee receive the Quarterly Procurement Audit Report and provide feedback.

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**Min.105      ITEM ARIC042/20 - INTERNAL OMBUDSMAN SHARED SERVICE REPORT FOR CUMBERLAND CITY COUNCIL****RESOLVED**

That the Audit, Risk and Improvement Committee receive the information.

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**Min.106      ITEM ARIC028/20 - CONFIRMATION OF AUDIT, RISK AND IMPROVEMENT COMMITTEE - MINUTES OF MEETING HELD ON 18 MAY 2020****RESOLVED**

That the minutes of the Audit, Risk and Improvement Committee meeting held on 18 May 2020 be received and the recommendations contained therein, be adopted.

**Discussion:**

The ARIC queried page 12 of the additional attachments paper regarding the question where phases 2 and 3 of the implementation plan can be merged. The ARIC stated that no action was done regarding this and the question will be brought up again during the WHS report in the current meeting.

The ARIC confirm and accept the minutes as a true record of the previous meeting.

**Matter Arising**

The ARIC queried the absence of Councillor Joseph Rahme and asked that this matter be looked into.

**Action:** Follow up with Councillor Rahme regarding arrangements for attending the ARIC

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**Min.107      ITEM ARIC029/20 - OUTSTANDING ARIC ACTIONS, EXTERNAL AUDIT, INTERNAL AUDIT AND CRIP AUDIT RECOMMENDATIONS****RESOLVED**

That the Audit, Risk and Improvement Committee receive and consider the information contained in the report.

**Discussion:**

The General Manager advised that he has raised his concerns with the number of audit items on the list that were requesting extension from the Committee, and has raised this

in the Executive Team and Managers Advisory Group Meeting. This item has now been included as a KPI in the Quarterly Performance Review discussions.

#### **External Audit Recommendations**

The ARIC queried whether the Director Finance and Governance had heard from the Audit Office regarding the Property Policy outstanding item. The Director Finance and Governance advised not as yet however it will be going to Council in September 2020.

#### **Internal Audit Recommendations**

R5: WHS High Risk – The ARIC queried whether this has been completed. The Executive Manager Corporate Services advised that the WHS team now reports to him they are in the process of completing this recommendation.

The Executive Manager Corporate Services advised that the responsible officer for the project management office recommendations is confident they will be completed and closed off by the end of the month. The General Manager noted the PMO suite of documents have been endorsed by the Executive Team in July 2020.

Executive Manager Corporate Services advised that the responsible officer for the project management recommendations is confident they will be completed and closed off by the end of the month. The General Manager noted the PMO suite of documents have been endorsed by the Executive Team in July 2020.

R8: Enterprise Risk Management – The Executive Manager Corporate Services advised that this will be prioritised by himself and the Executive Team.

R6, 7 & 8: IT General Controls – The Director Finance and Governance advised that due to staff being offsite due to social distancing, it has taken longer to roll out this recommendation.

The ARIC approved the extensions sought in this report whilst sharing the concerns expressed by the General Manager, and noting the arrangements to be followed as set out by the General Manager.

#### **Action:**

- The ARIC requested a progress report on the high risk recommendations and the actions taken to meet the recommendations to be received at the next ARIC Meeting.

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#### **EXTERNAL AUDIT VERBAL UPDATE**

Kenneth Leung advised that the Audit Team has conducted the planning and the interim visit and are preparing for the year-end audit. He advised that further updates will be provided to the ARIC as it progresses.

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<b>Min.108</b>	<b>ITEM ARIC030/20 - INTERNAL AUDIT FINAL REPORTS - INTEGRITY FRAMEWORK (FRAUD &amp; CORRUPTION)</b>
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#### **RESOLVED**

That the Audit, Risk and Improvement Committee:



1. Receive the final internal audit report for Integrity Framework (Fraud & Corruption), including the risk levels identified;
2. Note that adequate responses by management have been provided.

**Discussion:**

Steve Kent provided an overview of the report.

The ARIC noted, and commended, that Council had used the Audit Office Fraud Control Improvement Kit as its methodology (as recommended by OLG) and had now: undertaken a staff awareness survey, performed a gap analysis, developed an action plan, and had sought an independent assessment via internal audit.

The ARIC queried attribute 5 on page 45 of the audit report and asked for more clarity on this. The Executive Manager Corporate Services advised that Council has integrated the fraud and corruption risk assessment into the business unit plans and noted that it will be included as an agenda item on every third procurement and business partner meeting to ensure it is embedded into business as usual activities as much as possible. The ARIC queried a staff fraud awareness survey. The Executive Manager Corporate Services advised that this was undertaken in 2018 and Council are looking to implement this initiative again in late 2020/early 2021 electronically due to COVID-19.

The Executive Manager Corporate Services advised that he will table a report to the Executive Team next month to endorse the annual internal audit plan, noting that the Internal Audit Plan is continuing. The ARIC were satisfied with this response and advised generally that the audit yielded positive results and the framework was reaching a higher level of maturity.

**Action:** Nil.

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**Min.109      ITEM ARIC031/20 - ANNUAL INTERNAL AUDITOR'S REPORT 19-20****RESOLVED**

That the Audit, Risk and Improvement Committee receive the information.

**Discussion:**

Steve Kent provided an overview of the report.

The Executive Manager Corporate Services noted that a couple of audits were delayed due to COVID-19 and Council's pandemic response including implementation of working from home processes. He further advised he is planning on tabling a report to the Executive Team at the end of the month to finalise the annual plan and to prioritise the audits.

The ARIC noted that it may be helpful to remind the external auditors that the audits of Legislative Compliance and Regulatory Compliance are on the Internal Audit Plan, as they have been repeat items raised at a number of Councils. The ARIC stated that as these areas are on the audit program, it is a sign of good faith shown by Council.

The ARIC queried the Internal Audit Plan and are looking forward to seeing the FY21 plans and get them approved at ARIC level. The ARIC noted that upon formation of the program following amalgamation, Council did not have a Risk Management Framework

to work off and BDO Australia had to carry out a high level risk assessment with Management and propose a plan based on that. The ARIC commended Council for working hard in building a Risk Management Framework which will be used the next time the Internal Audit Plan is reviewed which is a step forward in the risk and control environment.

**Action:**

- Executive Manager Corporate Services to circulate FY21 Internal Audit Plan prior to November 2020 ARIC Meeting.

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**Min.110      ITEM ARIC032/20 - GENERAL MANAGER'S UPDATE****RESOLVED**

That the Audit, Risk and Improvement Committee receive the General Manager's update.

**Discussion:**

The General Manager provided the below update:

- Covid-19 and budget repair have been our two key focus areas since the last ARIC Meeting
- The CIMT continues to meet regularly – although on a twice a week basis since restrictions were relaxed.
- As restrictions have been eased Council has responded in a measured way and adjusted our services accordingly.
- We currently have about 50% of office based staff working in our offices so we can ensure social distancing.
- We continue to monitor developments and make adjustments as required.
- The latest figures for the end of the 2019/20 financial year show a deficit of under \$0.5m. This is a significant improvement on what was forecast in March 2020. There are a number of reasons for this:
  - Loss of rates revenue not as great as expected
  - Grants (including child care stimulus payments)
  - Large saving in employee costs due to staff with excess leave being required to take leave and tight management of vacant positions
  - Reductions in other operating costs
- On 20 May Council resolved to delay \$15m in the capital works program to free up some cash and implement \$5 million in salary savings in the 2020/21 budget to start to rebuild the unrestricted cash reserves.
- Our unrestricted cash balance however is still negative and it is vital that further steps are taken to repair the budget and restore our cash reserves.
- On Saturday 11 July a full day workshop was facilitated with the Councillors to discuss further savings opportunities.
- On 15 July Council resolved to implement a further \$4.5 million in savings which will have service impacts in some areas. These areas were selected because they are relatively less important to the community. Council also resolved to implement

service reviews in the following areas to see if there were more cost effective ways of delivering these services:

- Education and Care
- Seniors units
- Holroyd Centre
- Swim centres
- Golf Course
- A financial statement has recently been released explaining the background to Council's financial situation and the measures agreed by Council in July.
- In other news Council has submitted an entry for the Bluett Award which is much more focused submission than our earlier attempt.

The ARIC noted that the economic statement is a remarkable document for Council to produce and is a really key statement to the community about the realities and managing expectations which is a really clever way to proceed.

The ARIC discussed the concept of Service Reviews and stated that they form part of the "I" in ARIC for improvement. The ARIC advised that service reviews are about deep diving into an area of Council to look at options for improvement and cost benefits and alternate ways of doing things, and are especially good to undertake during periods of hardship. The ARIC advised these are positive Governance steps in difficult times, as there is no easy answer for a budget shortfall. The ARIC noted that Council have put in place processes to confront realities regarding the budget position and to assist in decision making.

The ARIC commended Council's Executive Team for putting together the budget repair initiatives which have been undertaken.

The ARIC queried where Council is at with regards to the accelerated DA approvals, noting that this was a State Government priority. The General Manager advised that this area has been Council's focus for the last couple of years. The General Manager noted that Council has set some ambitious targets which has seen significant reductions in the median processing times and the percentage of DA's being assessed under 40 days. The General Manager noted that a grant has become available from the Government subject to Council meeting the recommended times and Council is actively progressing that at the moment.

Action: Nil.

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Min.111      ITEM ARIC034/20 - FINANCE AND IT UPDATES

**RESOLVED**

That the Audit, Risk and Improvement Committee note and receive this report.

Discussion:

The Director Finance and Governance provided an overview of this report.



The ARIC commended the comprehensive report. The ARIC noted that the required due diligence has been completed.

The ARIC queried whether there are any issues with regards to cyber-attacks and TechnologyOne. The Director Finance and Governance advised that he was not aware of any major incidents however about 12 months ago, TechnologyOne did proactively report an minor incident which was immaterial as no personal information was breached. The ARIC queried if there has been any complaints or issues regarding the TechnologyOne system. The Director Finance and Governance advised that the system has been quite stable. The General Manager advised that having TechnologyOne made it possible for staff to work at home more efficiently and effectively during Covid-19.

The ARIC queried the status of the financial statements. The Director Finance and Governance advised that the team are reviewing every revenue category. The Director Finance and Governance stated that he reasonably comfortable with the leasing standards at this time. He noted that Council overcharged a plan first levy which will need to be refunded and Council has put measures in place to address this. Council's Internal Audit Liaison Officer will conduct an audit to review the potential issues and rectify them to mitigate future occurrences and improve the process.

The ARIC queried the analysis of the original budget on page 87 of the paper and questioned the main makeup of the User Fees and Charges which is down by \$4m. The Director Finance and Governance advised that one of the substantial impacts was halls and parks and the rest was because childcare was not charged during Covid-19 when the Government subsidy was in place.

The ARIC noted the savings and employee costs have occurred due to the savings in excess leave.

The ARIC queried if employees were asked to take their long service leave and their annual leave because of Covid-19 and were staff accepting of this. The Director Finance and Governance stated that under the award if staff exceed 8 weeks annual leave accrual, Council is can give a lawful direction to put in a leave plan for employees to start taking that leave. This was also extended to long service leave during Covid-19. He stated that the Local Government (Splinter Award) was implemented which required staff to take any excess leave if work has slowed down due to the outbreak. He noted that the Splinter Award helped a lot as employees in areas like Community Centres and Libraries initially were closed for a period.

The ARIC commended Council for extracting the drastic level of savings and managing the budget and setting Council up for FY21 and future years.

**Action:** Nil.

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**Min.112      ITEM ARIC035/20 - AUDIT OF COUNCIL BUILDINGS UPDATE****RESOLVED**

That the Audit, Risk and Improvement Committee note the report.

**Discussion:**

The Executive Manager Parks, Recreation and Buildings provided an overview of the report.

The ARIC noted that Council now has a reliable estimate of the conditions and the backlog of its assets. The ARIC advised it is important for Council to take a risk based approach to addressing the backlog and prioritise asset management. The ARIC noted that a new governance arrangement has been put in place to ensure asset management is at the level it is required to be. The ARIC queried whether the information in this report will be considered in the review of the budget for 2021. The General Manager advised that the 2021 capital works budget will be heavily constrained and will be difficult however it will definitely influence the development of capital works programs in future years.

The ARIC queried if there are any State Government grants that Council can access. The General Manager advised the State Government is announcing a lot of money being available but most of that is for new infrastructure projects, and not renewing existing assets, but Council will be watching for any relevant announcements.

The ARIC noted that a new Governance arrangement has been put in place regarding asset management, and asked management to keep it where it needs to be.

**Action:**

- ARIC to be provided with a capital works update in the November 2020 meeting.

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**Min.113      ITEM ARIC036/20 - HAZARDOUS MATERIAL AUDIT UPDATE**

**RESOLVED**

That the Audit, Risk and Improvement Committee note the report.

**Discussion:**

The Executive Manager Environment and Precincts provided an overview on this report.

The ARIC noted that Council has demonstrated that they are taking this issue seriously as they have employed an Asbestos Management Officer. The ARIC also noted that Council is building a governance framework to sustain asbestos management for the future. The ARIC advised that this is an excellent report and queried if there were any extreme or high risks. The Executive Manager Environment and Precincts advised that there were no extreme or high risk items that were identified from the audit.

The ARIC noted that the information regarding asbestos contamination in parks has been included in the data which covers off on a risk which was identified in a previous report.

**Action:** Nil.



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**Min.114      ITEM ARIC037/20 - DRAFT GOVERNANCE FRAMEWORK****RESOLVED**

That the Audit, Risk and Improvement Committee note the *Draft Governance Framework* per attachment 1 and provide any feedback.

**Discussion:**

The Executive Manager Corporate Services provided an overview of this report.

The ARIC advised that it is a well compiled document and noted the governance maturity of Council has developed significantly over the past 2 years.

**Action:** Nil.

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**Min.115      ITEM ARIC038/20 - WHS & WORKERS COMPENSATION UPDATE****RESOLVED**

That the audit, risk and improvement committee receive and note the information contained in this report.

**Discussion:**

The Senior Coordinator Audit, Risk and Safety provided an overview of this report.

The ARIC noted that the major non-conformances reported to the ARIC previously had actions addressed against them. The ARIC noted that in the previous minutes it was noted that if phase 2 and 3 can be merged to sharpen the implementation plan and should be looked at again.

**Action:**

- ARIC to be provided with an update on the status of the major non-conformances which were identified in Council's Emergency Preparedness Audit at the next meeting.
- The ARIC requested further details in regards to the nature of WHS injuries in future reporting.
- The ARIC requested that the Employee safety high risks which were identified in the building conditions audit be captured as part of the safety analysis.

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**Min.116      ITEM ARIC039/20 - BUSINESS CONTINUITY MANAGEMENT UPDATE - COVID-19****RESOLVED**

That the Audit, Risk and Improvement Committee receive the management update report on Council's response and to COVID-19, and provide any feedback on Council's Business Continuity Management approach undertaken.

**Discussion:**

The Executive Manager Corporate Services provided an overview of this report.

The ARIC noted that the Executive Manager Corporate Services has been providing the ARIC with regular status updates on an ongoing basis out of session as to Council's business continuity initiatives. The ARIC queried whether Council can conduct a survey to capture any health issues or staff concerns on staff working from home. The Executive Manager Corporate Services advised that this will be considered for implementation later this year. The Executive Manager Corporate Services also discussed the unintended benefits from COVID-19 which Council can look to implement in the future such as flexible working arrangements. The Executive Manager Corporate Services noted that one of the positive things Council did was allow staff to come back to the office on a rotational basis which resulted in significant positive change to staff in relation to their mental health.

**Action:**

- Staff survey to be conducted towards the end of the year to capture any health issues or concerns regarding staff working from home.

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**Min.117      ITEM ARIC040/20 - GOVERNANCE, RISK & PROCUREMENT UPDATE**

**RESOLVED**

That the Audit, Risk and Improvement Committee receive the report.

**Discussion:**

The Executive Manager Corporate Services provided an overview of this report. The Senior Coordinator Audit, Risk and Safety provided a demonstration of the new Governance, Risk and Audit System. The Executive Manager Corporate Services noted that the outstanding ARIC and audit tracking spreadsheet provided in the paper is now automated in the system with no more manual intervention, and this features comes with a full audit trail and reporting capability. Executive Manager Corporate Services also noted that all Council resolutions, internal audit, external audit actions and risks are in the one integrated Technology One system for Management to update. The ARIC thanked Council for the demonstration and noted the tool would be positive in embedding a good Governance culture amongst staff.

**Action:** Nil.

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**Min.118      ITEM ARIC043/20 - CORPORATE PLANNING AND BUSINESS IMPROVEMENT UPDATE**

**RESOLVED**

That the Audit, Risk and Improvement Committee receive and note the information contained within this report.

**Discussion:**

The Executive Manager Corporate Services provided an overview of this report.

The ARIC queried which staff would be responsible in the event of a service review being undertaken. The General Manager noted that it would likely be a mix of the Business Improvement staff who would be involved in this initiative, and the relevant subject matter experts across Council.

**Action:** Nil.

### **GENERAL BUSINESS**

The following general business was raised:

- The Executive Manager Corporate Services noted that the proposed date for the Extraordinary ARIC Meeting (financial statements) will be sent via email to the Committee Members for confirmation.

### **NEXT MEETING**

Next Meeting 9 November 2020 at 1:30pm

### **MEETING CLOSE**

The meeting terminated at 3:53pm.

Signed:

Mr. Stephen Horne  
Chairperson



Item No: C09/20-540

## **NOTICE OF MOTION - FRUIT BEARING TREES WITHIN PEMULWUY**

Councillor: Eddy Sarkis and Paul Garrard  
File Number: SC483

### **SUMMARY**

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Pursuant to Notice, Councillor Sarkis and Councillor Garrard submitted the following Motion.

### **NOTICE OF MOTION**

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**That Council create a list of appropriate fruit bearing tree species, to be planted along Council's nature strips in liaison with the community within Pemulwuy.**

### **RESOURCING IMPLICATIONS**

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This work can be undertaken using existing Council resources.

### **GENERAL MANAGER ADVICE**

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A report will be presented to Council in October 2020 for consideration.

### **ATTACHMENTS**

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Nil





Item No: C09/20-541

## **NOTICE OF MOTION - PEMULWUY PLAYGROUND**

Councillor: Eddy Sarkis and Paul Garrard  
File Number: SC483

### **SUMMARY**

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Pursuant to Notice, Councillor Sarkis and Councillor Garrard submitted the following Motion

### **NOTICE OF MOTION**

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**That Council identify an appropriate location in Pemulwuy Playground, located between Watkin Tench Parade and Edward Drive, where there is an existing BBQ area, leash free dog park, 2 tennis courts, kids play equipment and a half court basketball court, for the delivery of a public toilet facility to service these amenities.**

### **RESOURCING IMPLICATIONS**

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This report can be prepared using existing Council resources.

### **GENERAL MANAGER ADVICE**

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A report will be presented to Council in October 2020 for consideration.

### **ATTACHMENTS**

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Nil