



northern  
beaches  
council

# AGENDA

Notice is hereby given that an Ordinary Meeting of Council will be held at the Civic Centre, Dee Why on

**Tuesday 28 February 2023**

Beginning at 6:00pm for the purpose of considering and determining matters included in this agenda.

A handwritten signature in black ink, appearing to read 'Ray Brownlee', with a long horizontal stroke extending to the right.

**Ray Brownlee PSM**  
**Chief Executive Officer**

## OUR VISION

*Delivering the highest quality service valued and trusted by our community*

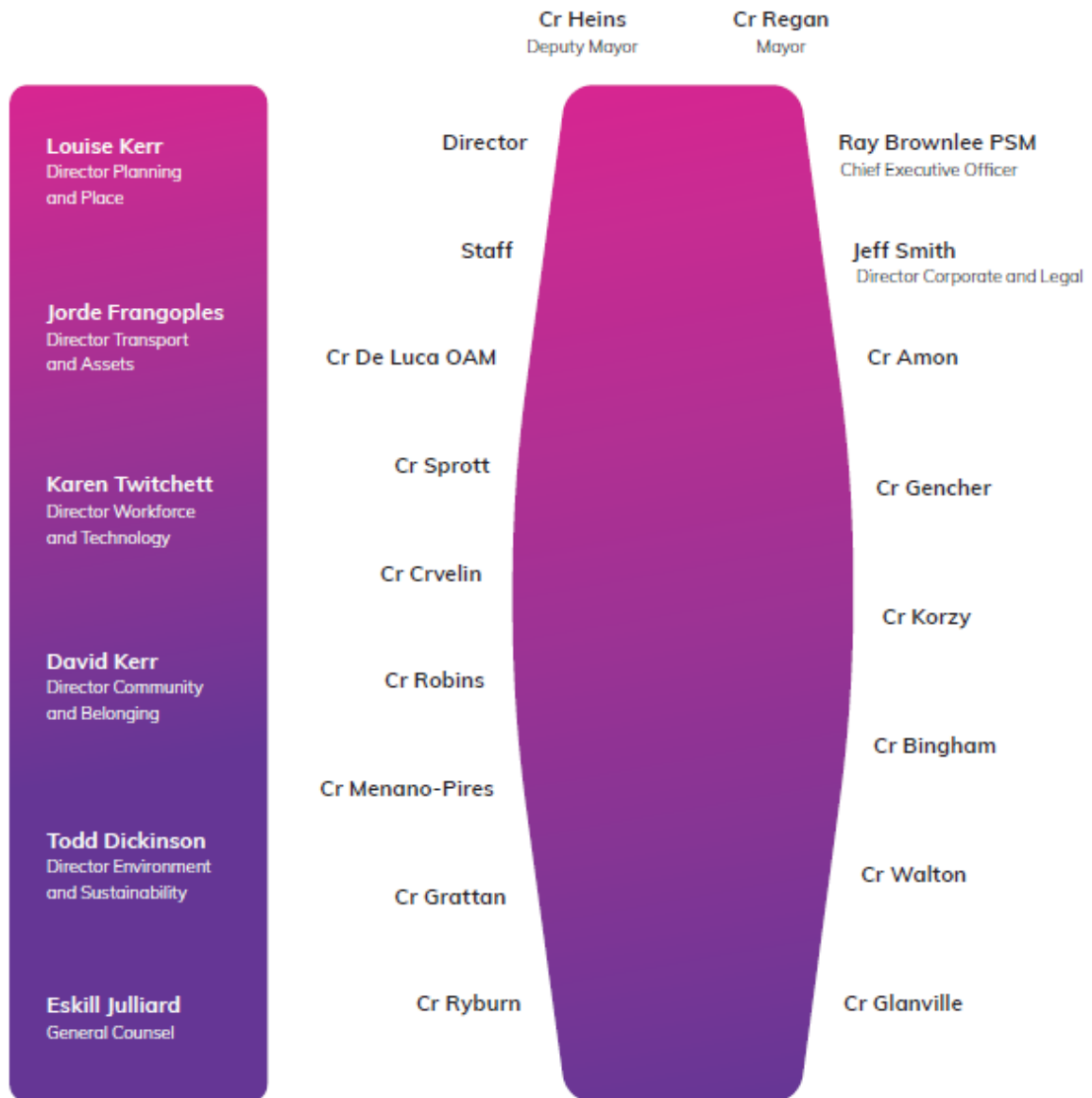
## OUR VALUES

*Trust Teamwork Respect Integrity Service Leadership*

## OUR OBLIGATIONS

*I swear/solemnly and sincerely declare and affirm that I will undertake the duties of the office of councillor in the best interests of the people of the Northern Beaches and the Northern Beaches Council and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgement.*

## Council Chambers Seating Plan



Public Gallery

**Agenda for an Ordinary Meeting of Council  
to be held on Tuesday 28 February 2023  
at the Civic Centre, Dee Why  
Commencing at 6:00pm**

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## 1.0 ACKNOWLEDGEMENT OF COUNTRY

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As a sign of respect, Northern Beaches Council acknowledges the traditional custodians of these lands on which we gather and pays respect to Elders past and present.

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## 2.0 APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE AND REMOTE ATTENDANCE

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In accordance with Part 6 of the Code of Meeting Practice, Council will consider apologies, requests for leave of absence, and requests to attend meetings remotely via audio-visual link.

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## 3.0 CONFIRMATION OF MINUTES

### 3.1 MINUTES OF ORDINARY COUNCIL MEETING HELD 13 DECEMBER 2022

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#### RECOMMENDATION

That the minutes of the Ordinary Council Meeting held 13 December 2022, copies of which were previously circulated, be confirmed as a true and correct record of the proceedings of that meeting.

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### 3.2 MINUTES OF EXTRAORDINARY COUNCIL MEETING HELD 24 JANUARY 2023

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#### RECOMMENDATION

That the minutes of the Extraordinary Council Meeting held 24 January 2023, copies of which were previously circulated, be confirmed as a true and correct record of the proceedings of that meeting.

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## 4.0 DISCLOSURES OF INTEREST

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In accordance with Part 17 of the Code of Meeting Practice, all Councillors must disclose and manage any conflicts of interest they may have in matters being considered at the meeting.

A Councillor who has a **pecuniary interest** in any matter with which Council is concerned, and who is present at a meeting of Council at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.

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The Councillor must not be present at, or in sight of, the meeting:

- a. at any time during which the matter is being considered or discussed, or
- b. at any time during which Council is voting on any question in relation to the matter.

A Councillor who has a **significant non-pecuniary** conflict of interest in a matter under consideration at a Council meeting, must manage the conflict of interest as if they had a pecuniary interest in the matter.

A Councillor who determines that they have a non-pecuniary conflict of interest in a matter that is **not significant** and does not require further action, when disclosing the interest must also explain why the conflict is not significant and does not require further action in the circumstances.

As required by Council's Code of Conduct and the Information and Privacy Commission's Information Access Guideline 1, returns made by designated persons are routinely tabled at Council meetings and published on Council's website.

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## 5.0 PUBLIC FORUM AND PUBLIC ADDRESS

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In accordance with Part 5 of the Code of Meeting Practice, residents, ratepayers, applicants or other persons may request to address Council in relation to any one matter related to the general business of Council but not the subject of a report on the agenda (Public Forum) and no more than two matters listed for consideration on the agenda (Public Address).

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## 6.0 ITEMS RESOLVED BY EXCEPTION

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In accordance with Part 14 of the Code of Meeting Practice, items that are dealt with by exception are items where the recommendations contained in the staff reports in the agenda are adopted without discussion.

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## 9.0 CORPORATE AND LEGAL DIVISION REPORTS

<b>ITEM 9.1</b>	<b>USE OF DELEGATED AUTHORITY BY THE MAYOR OVER CHRISTMAS AND NEW YEAR RECESS 2022/23</b>
<b>REPORTING MANAGER</b>	<b>EXECUTIVE MANAGER GOVERNANCE &amp; RISK</b>
<b>TRIM FILE REF</b>	<b>2022/677650</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

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### BRIEF REPORT

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#### PURPOSE

To inform Council how the delegated authority granted to the Mayor by the Council over the 2022-23 recess was exercised.

#### REPORT

In November 2022 Council granted authority to the Mayor to make decisions on the governing body's behalf on urgent matters over the recess period 14 December 2022 to 31 January 2023 inclusive. The resolution (351/22) required a report to be provided to the 28 February 2023 Council meeting outlining how the delegated authority was exercised.

This report is to advise Council there were no decisions made under the delegation of authority by the Mayor over the recess period.

#### LINK TO COUNCIL STRATEGY

This report relates to the Community Strategic Plan Outcome of Good Governance Goal 19 - Our Council is transparent and trusted to make decisions that reflect the values of the community.

#### FINANCIAL CONSIDERATIONS

There are no financial considerations in relation to this report.

#### ENVIRONMENTAL CONSIDERATIONS

There are no environmental considerations in relation to this report.

#### SOCIAL CONSIDERATIONS

There are no social considerations in relation to this report.

#### GOVERNANCE AND RISK CONSIDERATIONS

This report meets the requirements of Council resolution 351/22 Council Delegated Authority - Christmas / New Year Recess 2022-23.

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#### RECOMMENDATION OF DIRECTOR CORPORATE AND LEGAL

That Council note the report.

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<b>ITEM 9.2</b>	<b>QUARTERLY REVIEW - DECEMBER 2022</b>
<b>REPORTING MANAGER</b>	<b>EXECUTIVE MANAGER STRATEGY &amp; PERFORMANCE AND EXECUTIVE MANAGER FINANCIAL PLANNING AND SYSTEMS</b>
<b>TRIM FILE REF</b>	<b>2022/774756</b>
<b>ATTACHMENTS</b>	<b>1 <a href="#">⇒</a>Progress of the Operational Plan - December 2022 (Included In Attachments Booklet)</b> <b>2 <a href="#">⇒</a>Quarterly Budget Review Statement - December 2022 (Included In Attachments Booklet)</b> <b>3 <a href="#">⇒</a>Stronger Communities Funds and New Council Implementation Fund - December 2022 (Included In Attachments Booklet)</b>

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## SUMMARY

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### PURPOSE

To present financial and service performance results for the period ended 31 December 2022, and a progress report on the expenditure from the \$36.1 million Stronger Communities Fund (SCF) provided by the New South Wales (NSW) Government.

### EXECUTIVE SUMMARY

This report details Council's service performance results and the consolidated financial position for the period ended 31 December 2022. The Quarterly Review is a progress report on the implementation of the Operational Plan 2022/23.

The operating result (which includes capital grants and contributions) for the financial year is forecast to increase by \$5.8 million to a surplus of \$48.4 million. Excluding capital grants and contributions the result is forecast to improve by \$0.8 million, from a surplus of \$6.6 million to a surplus of \$7.4 million.

Capital expenditure is forecast to increase by \$2.1 million to \$108.2 million, primarily due a new \$9.1 million Regional and Local Roads Repair Program grant, of which \$3.4 million will be spent this financial year.

Council's budget remains balanced. Investment returns remain strong following rising interest rates, with an additional \$0.8 million expected (which relates to Kimbriki and restricted reserve funds). An additional \$1.4 million from development contributions is also anticipated.

Council's 2022/23 Operational Plan contains 196 actions relating to both operational and capital projects. Of the 196 actions the majority (86%) are progressing on schedule, including 23 completed. The Plan also contains performance measures. Of the 37 reportable measures, 81% have met or approached their targets this quarter.

The Report also details expenditure associated with the implementation of Council's SCF projects supported by NSW Government funds, including an update on the performance space being built at Mona Vale Public School and construction of the new Long Reef Surf Life Saving Club.

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**RECOMMENDATION OF DIRECTOR CORPORATE AND LEGAL**

That Council:

1. Note the December 2022 Quarterly Budget Review Statement.
  2. Approve the following changes to the Current Forecast in the December 2022 Quarterly Budget Review Statement:
    - A. An increase in the forecast surplus from Continuing Operations, which includes Capital Grants and Contributions, of \$5.786 million to \$48.356 million.
    - B. An increase in capital expenditure by \$2.101 million to \$108.175 million.
  3. Note the Quarterly Report on Service Performance for the period ended 31 December 2022.
  4. Note the Quarterly Report on expenditure of funds from the Stronger Communities Fund for the period ended 31 December 2022.
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## REPORT

### BACKGROUND

Northern Beaches Council's Operational Plan 2022/23 was adopted on 28 June 2022. The Operational Plan is for the period 1 July 2022 to 30 June 2023.

The Quarterly Budget Review Statement is a regular progress report against the Operational Plan 2022/23. It has been prepared in accordance with the requirements of the Local Government (General) Regulation 2021 (Cl203) and essential element 4.9 of the Integrated Planning and Reporting Guidelines (September 2021), namely that the Responsible Accounting Officer report quarterly on a budget review statement and the Chief Executive Officer report at least every six months on the principal activities.

The Quarterly Budget Review Statement provides reporting to adequately disclose Council's overall financial position as well as provide sufficient information to enable informed decision making while ensuring transparency.

The Quarterly Report on Service Performance discloses the progress of key services in the delivery of projects and against performance measures.

The report includes updates for the period ending 31 December 2022:

- Service performance
- Financial performance and position, contracts listing and recommended changes to the budget
- The outcomes delivered from the \$36.1 million Stronger Communities Fund (Attachment 3).

### Overview of service performance

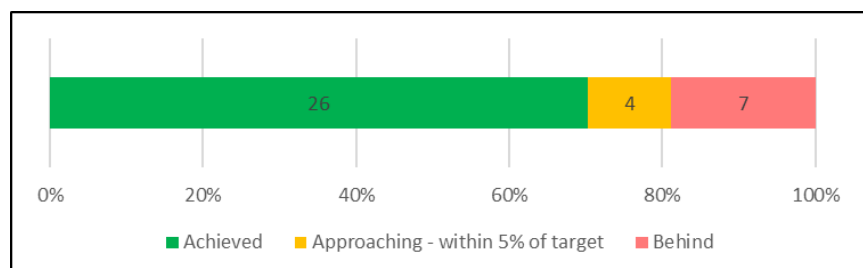
A report on Council's service performance is provided at Attachment 1. This is a comprehensive report on Council's 196 operational and capital projects, 37 reportable service performance measures, seven workload measures and service highlights across our 16 key services.

Council is making good progress towards achieving its performance targets and delivering operational and capital projects. Most missed targets and half the delayed projects are due to external factors including storm events, persistent wet weather, COVID and third-party issues.

A summary of our performance is outlined below.

#### Performance measures

Overall 81% of Council's 37 performance measures met or approached the target. Of the 11 measures that did not achieve their target, most were impacted by weather events, third-party issues or reduced demand.

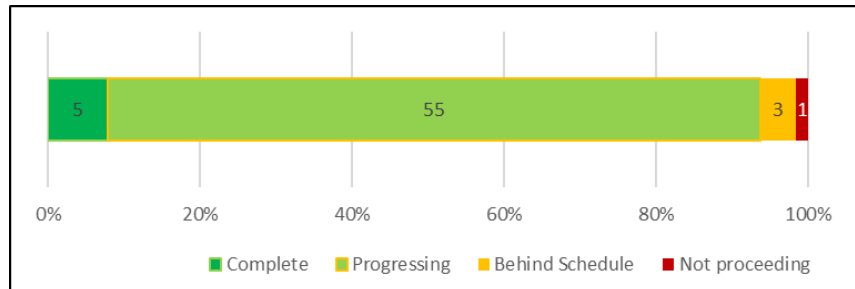


### Operational project progress

Of the 64 operational projects, 94% are progressing on schedule.

Of the three projects behind schedule, two were affected by the response to storms and persistent wet weather. One other project will not proceed as the need has been fulfilled by other initiatives.

*Target: 80% complete/on schedule as at 30 June 2023*



Two operational projects were completed this quarter:

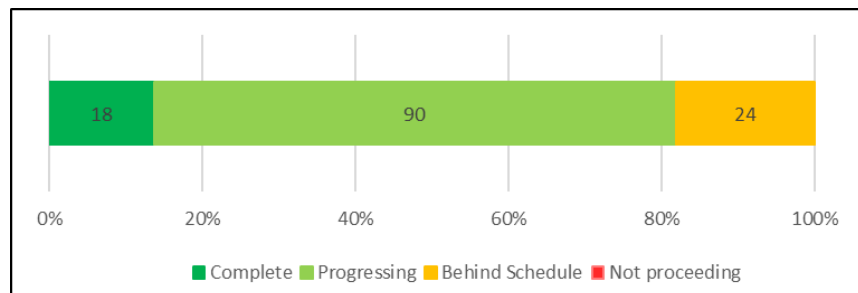
- Review environmental compliance tools and procedures to improve customer experience
- Currawong Cottages and surrounds - Refurbishment, Modernisation and Environmental works

### Capital project progress

Of the 132 capital projects, 82% are complete or progressing on schedule.

Of the 24 projects behind schedule, half are due to external factors such as storm events, persistent wet weather, COVID or third party delays.

*Target: 80% complete/on schedule as at 30 June 2023*



13 capital projects were completed this quarter:

- Ashley Parade Reserve - new playground
- Church Point Masterplan Boardwalk extension
- Coast Walk Aboriginal art and signage
- Currawong Cottages
- Gallery Art Work Purchases
- Jacka Park playground upgrade
- Kimbriki landfill cell development area 4A
- Kimbriki landfill cell development mid-west
- Library Bookstock
- Mona Vale Surf Life Saving Club
- Narrabeen Lagoon pedestrian and cycle bridge
- North Curl Curl Youth Facility
- Sydney Lakeside Holiday Park renewal

The Office of Local Government's Integrated Planning and Reporting Guidelines for Local Government in NSW places requirements on Council in relation to service reviews. Essential Element 4.17 states that "...the Operational Plan must specify each review to be undertaken in that year." At the time of the development of the 2022/23 Operational Plan, Council had completed a holistic review of all its 57 services with a resulting program of actions to be undertaken. These actions are being implemented based on available resources.

In August 2022, a workshop was held with Councillors to look at the next step in the service review program. As a result, reviews of the following services will be complete or in progress by June 2023:

- Facilities Management and Services (Building Maintenance) - complete
- Street Sweeping – complete
- Roads and Transport Infrastructure (Road Maintenance) – in progress
- Public and Environmental Health – in progress.

As the Service Review oversight committee, Council's Audit, Risk and Improvement Committee will be updated with the progress of each Service Review. Any recommendations that significantly impact service levels and require a decision of Council will be brought to Council for consideration.

### **Stronger Communities Fund (SCF)**

Attachment 3 outlines the progress of projects funded by the NSW Government's SCF. While four projects are ongoing, a range have been completed such as accessible playgrounds, cycleways, surf lifesaving clubs, netball courts and performance spaces.

### **Overview of Financial Performance**

#### Responsible Accounting Officer Budget Review Statement

The following statement is made in accordance with Clause 203(2) of the Local Government (General) Regulations 2021:

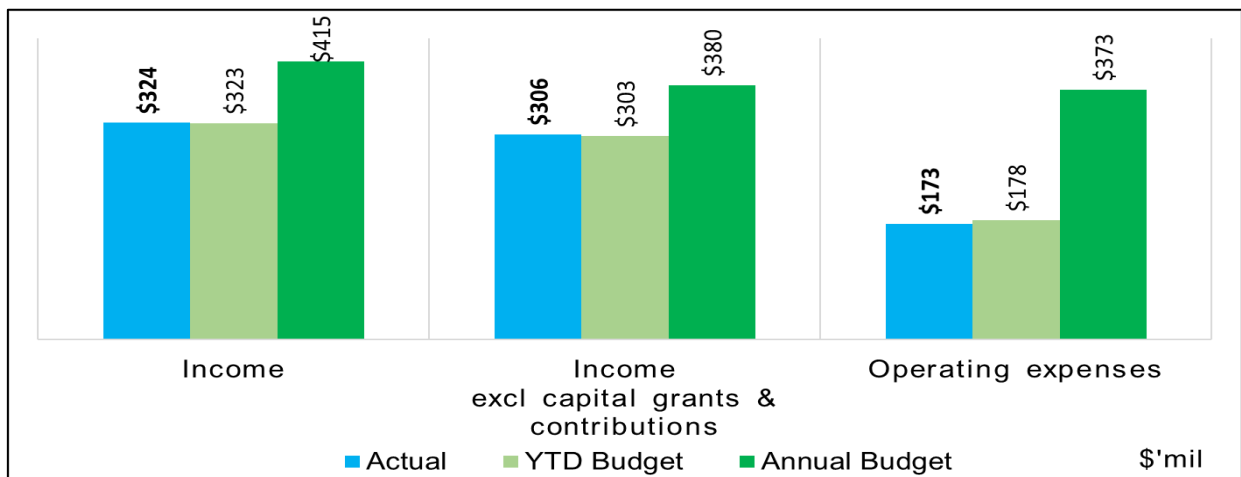
*"It is my opinion that the Budget Review Statement for Northern Beaches Council for the period ending 31 December 2022 indicates that Council's projected financial position at 30 June 2023 will be satisfactory, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure."*

David Walsh Chief Financial Officer, Northern Beaches Council.

### **Income Statement – progress and forecast changes**

The attached Quarterly Budget Review Statement (QBRs) provides an overview of Council's progress against the annual budget at the end of the December 2022 quarter and provides explanations for major variations that result in recommendations for budget changes.

Operating budget summary – as at 31 December 2022 (\$' million)



For the six months to 31 December 2022 the operating result (incl capital grants and contributions) is \$5.5 million favourably ahead of budget, primarily due to phasing of expenditure and income items partially offset by the timing of the release of capital grant funding against project expenditure milestones and costs associated with natural disasters.

The operating surplus which includes capital grants and contributions for the financial year is forecast to increase by \$5.8 million to \$48.1 million. Income is forecast to increase by \$7.2 million while operating expenses will increase \$1.5 million (primarily due to higher than expected investment income offset by expenditure on storm events and capital grants and contributions).

The operating result excluding capital grants and contributions is forecast to improve by \$0.8 million to a \$7.4 million surplus. These overall movements are summarised in the table below, under the 'Recommended Changes' column.

Operating budget as at 31 December 2022 – summary of recommended changes

\$'000	Annual				Year to date		
	ORIGINAL Budget	REVISED Budget	Recommended changes	CURRENT Forecast	Actual	Approved Budget	Variance
Income	400,340	415,485	7,242	422,727	323,549	322,992	557 0%
Operating expenses	(361,781)	(372,915)	(1,456)	(374,371)	(172,815)	(177,764)	4,949 3%
<b>Surplus / (Deficit)</b>	<b>38,559</b>	<b>42,569</b>	<b>5,786</b>	<b>48,356</b>	<b>150,734</b>	<b>145,228</b>	<b>5,506 4%</b>
<b>Surplus / (Deficit) before Capital Grants &amp; Contributions</b>	<b>8,795</b>	<b>6,646</b>	<b>764</b>	<b>7,410</b>	<b>133,602</b>	<b>125,729</b>	<b>7,873 6%</b>

Attachment 2 'Quarterly Budget Review Statement - December 2022' provides further information on the proposed variations to the budget.

## Income Year to Date (YTD) Analysis

Total income at the end of December 2022 is \$323.5 million which is \$0.6 million above the forecast. The principal reasons for this variance are as follows:

Income as at 31 December 2022 – Variance to Approved YTD Budget

YTD Variance \$'000	Details – Favourable / (Unfavourable)
184	<b>Rates and Annual Charges</b>
1,004	<b>User Charges &amp; Fees</b> <ul style="list-style-type: none"> <li>• Stronger than anticipated income: <ul style="list-style-type: none"> <li>○ Kimbriki Waste &amp; Recycling Centre \$0.6m</li> <li>○ Sydney Lakeside \$0.4m</li> </ul> </li> <li>• Lower income sources including: <ul style="list-style-type: none"> <li>○ Restoration charges (\$0.2m)</li> <li>○ Child Care (\$0.2m)</li> </ul> </li> <li>• Timing of revenue recognition for development assessments \$0.5m</li> </ul>
301	<b>Investment Fees and Revenues</b> <ul style="list-style-type: none"> <li>• Stronger than anticipated income due to higher interest rates and higher investment balances</li> </ul>
(383)	<b>Other Revenue</b> <ul style="list-style-type: none"> <li>• Stronger than anticipated income: <ul style="list-style-type: none"> <li>○ Investment losses recovered \$0.3m</li> <li>○ Kimbriki recycling income \$0.1m</li> </ul> </li> <li>• Lower income sources including: <ul style="list-style-type: none"> <li>○ Parking fines (\$0.8m)</li> <li>○ Other fines (\$0.1m)</li> </ul> </li> <li>• Timing of revenue recognition for advertising on Council structures \$0.2m</li> </ul>
1,653	<b>Grants and Contributions – Operating Purposes</b> <ul style="list-style-type: none"> <li>• Disaster grant funds received in advance \$1.9m</li> <li>• Library Subsidy Grant received earlier than anticipated \$0.8m</li> <li>• Timing of revenue recognition of grants to match expenditure of funds including the B-Line offset tree planting program from Mona Vale to Seaforth Road corridor (\$0.8m) and Currawong works (\$0.3m)</li> </ul>
(2,367)	<b>Grants and Contributions – Capital Purposes</b> <ul style="list-style-type: none"> <li>• Development contributions higher than expected \$2.9m</li> <li>• Timing of revenue recognition of grants to match expenditure of funds including: <ul style="list-style-type: none"> <li>○ Queenscliff headland access ramp (\$0.9m)</li> <li>○ Footpath renewal works (\$0.8m)</li> </ul> </li> </ul>



YTD Variance \$'000	Details – Favourable / (Unfavourable)
	<ul style="list-style-type: none"> <li>○ Traffic facility delivery program (\$0.8m)</li> <li>○ Active Transport Corridor (\$0.6m)</li> <li>○ Clontarf Reserve Tidal Pool (\$0.6m)</li> <li>○ Streets as Shared Spaces (Avalon) (\$0.4m)</li> <li>• Delay in payment of the Duffys Forest Rural Fire Station contribution (\$0.7m) and Long Reef SLSC contribution (\$0.4m)</li> </ul>
<b>(261)</b>	<b>Other Income</b> <ul style="list-style-type: none"> <li>• Property leases including Lakeside Holiday Park (\$0.2m)</li> </ul>
<b>426</b>	<b>Gain on disposal of assets</b> <ul style="list-style-type: none"> <li>• Timing of proceeds on sale of plant &amp; equipment</li> </ul>
<b>557</b>	<b>TOTAL INCOME VARIANCE – YTD ACTUALS WITH YTD BUDGET</b>

### Operating Expenses Year to Date (YTD) Analysis

Total operating expenses at the end of December 2022 is \$172.8 million, which is \$4.9 million under the forecast. The principal reasons for this variance are as follows:

Operating expenses as at 31 December 2022 – Variance to Approved YTD Budget

YTD Variance \$'000	Details – Favourable / (Unfavourable)
979	<p><b>Employee Benefits and Oncosts</b> Lower primarily due to vacancies in Corporate Support, Transport and Environmental Compliance Services. This was partially offset by higher expenditure in Children's Services due to a higher utilisation of casual staff due to the unavailability of agency staff and trainees.</p>
44	<p><b>Borrowing Costs</b></p>
5,325	<p><b>Materials and Services</b></p> <ul style="list-style-type: none"> <li>• Timing of works: <ul style="list-style-type: none"> <li>○ IT and communications \$1.4m</li> <li>○ Bush regeneration \$0.7m</li> <li>○ Tree works \$0.6m (delays in B-Line grant funded project)</li> <li>○ Land use planning \$0.4m</li> <li>○ Environment and floodplain \$0.5m (incl grant funded projects)</li> <li>○ Recreation and sportsfields \$0.4m (Cromer High School Sportsfield)</li> <li>○ Staff training programs \$0.3m</li> <li>○ Utilities \$0.3m</li> </ul> </li> <li>• Lower than anticipated expenditure: <ul style="list-style-type: none"> <li>○ Waste disposal costs \$0.6m</li> <li>○ Legal services \$0.4m</li> </ul> </li> <li>• Higher than anticipated expenditure: <ul style="list-style-type: none"> <li>○ Storm related damage clean up (\$0.3m)</li> <li>○ Kimbriki Waste and Recycling Centre (\$0.2m)</li> </ul> </li> </ul>
(871)	<p><b>Depreciation and Amortisation</b></p> <ul style="list-style-type: none"> <li>• Due to the timing of the completion and capitalisation of new assets.</li> </ul>
(529)	<p><b>Other Expenses</b></p> <ul style="list-style-type: none"> <li>• Kimbriki Waste levy (\$0.3m)</li> <li>• Timing of Surf Lifesaving NSW subsidies (\$0.1m)</li> <li>• Delays in project milestones for Mona Vale Performance Space (\$0.1m)</li> </ul>
4,949	<p><b>TOTAL OPERATING EXPENSES VARIANCE - YTD ACTUALS WITH YTD BUDGET</b></p>

## Capital Budget Statement

Capital expenditure is forecast to increase by \$2.1 million to \$108.2 million, primarily due to a new Regional and Local Roads Repair Program grant.

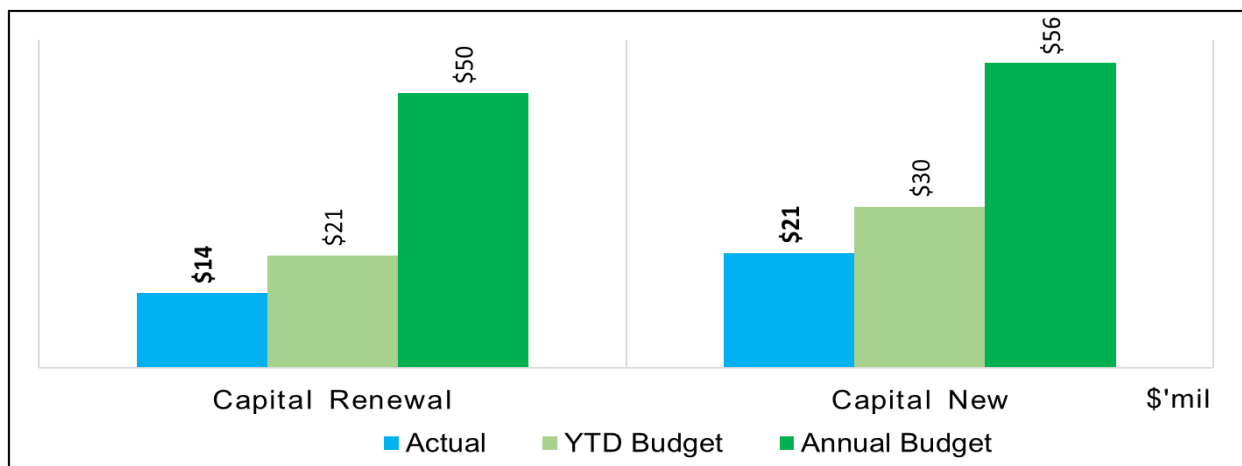
Proposed variations to the capital expenditure budget are outlined in Attachment 2 'Quarterly Budget Review Statement - December 2022' and include:

- Budget increases in the December 2022 quarterly review include:
  - \$3.4m Regional and Local roads repair program (grant)
  - \$1.3m New footpaths program (grant)
  - \$1.0m Active transport corridor project (grant)
  - \$0.8m Cromer Depot improvement plan works
- Budgets rephased to future years in the December 2022 quarterly review include:
  - (\$2.4m) Active transport corridor project (grant)

## Capital Expenditure Year to Date (YTD) Analysis

Expenditure on capital works for the six months ended 31 December 2022 is \$34.8 million against a year-to-date budget of \$50 million.

Capital budget summary – as at 31 December 2022 (\$'million)



The principal reasons for the variance in expenditure versus the year-to-date budget are as follows:

Capital expenditure as at 31 December 2022 – Variance to Approved YTD Budget

YTD Variance \$'000	Details – Favourable / (Unfavourable) YTD Variance
6,833	<b>Capital Expenditure – Renewal Projects</b> <ul style="list-style-type: none"> <li>• Primarily due to the timing of works including the road resheeting program \$1.5m, footpath renewal programs \$1.2m and planned stormwater renewal works \$0.7m.</li> </ul>
8,459	<b>Capital Expenditure – New Projects</b> <ul style="list-style-type: none"> <li>• Primarily due to the timing of works including the new footpaths program \$2.2m, Queenscliff headland access ramp \$0.9m and traffic facility works \$0.8m.</li> </ul>

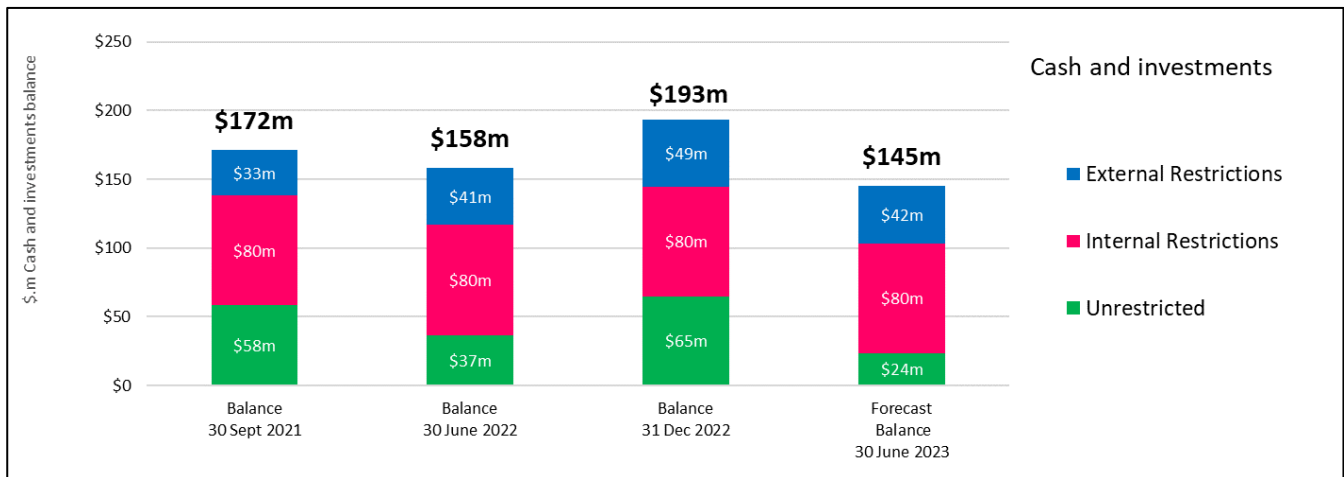
YTD Variance \$'000	Details – Favourable / (Unfavourable) YTD Variance
15,292	TOTAL CAPITAL EXPENDITURE VARIANCE – YTD ACTUALS WITH YTD BUDGET

Further information on the progress of capital projects is available within Attachment 1 'Quarterly Report on Service Performance'.

### Cash and Investments

The balance of cash and investments as at 31 December 2022 was \$193 million. The revised projected balance on 30 June 2023 is \$145 million, \$46 million higher than the Original Budget forecast of \$99 million, primarily due to rephasing of capital expenditure to the 2023-2024 financial year and new grants and contributions.

Cash and investments – as at 31 December 2022



Further information is available on cash and investments within Attachment 2 'Quarterly Budget Review Statement - December 2022' to this report.

## Financial Performance Measures

The following financial performance measures indicate that Council will meet the Office of Local Government's benchmarks.

\$ '000	Forecast result 30/6/2023	Forecast indicator 30/6/2023	Benchmark
<b>1. Operating Performance</b>			
Total continuing operating revenue <sup>1</sup> excluding capital grants and contributions less operating expenses	7,023	1.84%	✓ >0%
Total continuing operating revenue <sup>1</sup> excluding capital grants and contributions	381,312		
<sup>1</sup> Excludes fair value adjustments, reversal of revaluation decrements and net gain on sale of assets.			
This ratio measures Council's achievement of containing operating expenditure within operating revenue. It is important to distinguish that this ratio is focusing on operating performance and hence capital grants and contributions, fair value adjustments, net gain on sale of assets and reversal of revaluation decrements are excluded.			
For the 2022/23 financial year, the forecast result remains above the benchmark.			
\$ '000	Forecast result 30/6/2023	Forecast indicator 30/6/2023	Benchmark
<b>2. Unrestricted Current Ratio</b>			
Current assets less all external restrictions	124,792	1.69x	✓ >1.5x
Current liabilities less specific purpose liabilities	73,697		
The Unrestricted Current Ratio is specific to local government and is designed to represent a Council's ability to meet short term obligations as they fall due. Restrictions placed on various funding sources (e.g., development contributions and domestic waste income) complicate the traditional current ratio used to assess liquidity of businesses as cash allocated to specific projects is restricted and cannot be used to meet a Council's other operating and borrowing costs – these funding sources are removed from this ratio.			
For the 2022/23 financial year, the forecast result will continue to meet the benchmark.			

## CONSULTATION

Where relevant, community feedback on activities or events is included in the attachment.

## TIMING

The Quarterly Budget Review Statement meets the requirements of the Local Government Act 1993 (s404(5)) and Local Government (General) Regulation 2021 (S203), namely that Council report quarterly on a budget review statement, and at least every six months on the principal activities of its Operational Plan.

## LINK TO STRATEGY

This report relates to the Community Strategic Plan Outcome of:

- Good governance - Goal 19 Our Council is transparent and trusted to make decisions that reflect the values of the community

## **FINANCIAL CONSIDERATIONS**

The operating surplus (which includes capital grants and contributions) for the financial year is forecast to increase by \$5.8 million to a surplus of \$48.4 million. Excluding capital grants and contributions the result is forecast to improve by \$0.8 million, from a surplus of \$6.6 million to a surplus of \$7.4 million. Capital Expenditure is forecast to increase by \$2.1 million to \$108.2 million.

Council's budget remains balanced and is expected to meet all financial performance benchmarks this financial year.

## **SOCIAL CONSIDERATIONS**

The report discloses progress on implementing the Operational Plan 2022/23. This includes the continued delivery of services and capital works that support our community and economy. These initiatives will have a positive social and economic impact on the community, including additional services and support available during natural hazard events and the COVID-19 pandemic.

## **ENVIRONMENTAL CONSIDERATIONS**

The report provides progress on implementing the Operational Plan 2022/23 which includes a range of projects to protect and enhance our natural environment - by managing our coast, bush and biodiversity; implementing catchment management initiatives; and a variety of on-ground works and education in our urban and natural settings.

## **GOVERNANCE AND RISK CONSIDERATIONS**

The Quarterly Budget Review Statement meets the statutory reporting requirements for progress at the end of the quarter – i.e., implementation of the Operational Plan 2022/23 and Council's overall financial position. It is provided to enable informed decision making while also ensuring transparency on Council's governance, business assurance and financial sustainability.

<b>ITEM 9.3</b>	<b>MONTHLY INVESTMENT REPORT - NOVEMBER 2022</b>
<b>REPORTING MANAGER</b>	<b>CHIEF FINANCIAL OFFICER</b>
<b>TRIM FILE REF</b>	<b>2022/776429</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

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## SUMMARY

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### PURPOSE

To provide a report setting out details of all money that Council has invested under section 625 of the *Local Government Act 1993*.

### EXECUTIVE SUMMARY

In accordance with section 212 of the Local Government (General) Regulation 2021, a report setting out the details of money invested must be presented to Council on a monthly basis.

The report must also include certification as to whether or not the investments have been made in accordance with the Act, the Regulations and Council's Investment Policy.

The Investment Report shows that Council has total cash and investments of \$207,563,253 comprising:

- Trading Accounts           \$5,265,995
- Investments                 \$202,297,258

The portfolio achieved a return of 0.291% for the month of November which was 0.041% above the benchmark AusBond Bank Bill Index return of 0.25%. For the past 12 months the portfolio achieved a return of 1.472% which was 0.462% above the benchmark AusBond Bank Bill Index return of 1.01%.

The weighted average interest rate of the portfolio is 3.61% compared to 3.40% for the prior month. For the past 12 months the weighted average interest rate of the portfolio was 1.66% compared to the average Ausbond Bank Bill movement of 0.08% and the average Reserve Bank of Australia Cash Rate of 1.06%.

### Certification – Responsible Accounting Officer

I hereby certify that the investments listed in the attached reports have been made in accordance with section 625 of the *Local Government Act 1993*, section 212 of the Local Government (General) Regulation 2021 and existing Investment Policies.

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### RECOMMENDATION OF DIRECTOR CORPORATE AND LEGAL

That Council note the Investment Report as of 30 November 2022, including the certification by the Responsible Accounting Officer.

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## REPORT

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### BACKGROUND

In accordance with section 212 of the Local Government (General) Regulation 2021, a report setting out the details of money invested must be presented to Council on a monthly basis.

The report must also include certification as to whether or not the investments have been made in accordance with the Act, the Regulations and Council's Investment Policy.

### LINK TO STRATEGY

This report relates to the Community Strategic Plan Outcome of:

- Good governance - Goal 19 Our Council is transparent and trusted to make decisions that reflect the values of the community

### FINANCIAL CONSIDERATIONS

Actual investment income for the period from 1 July 2022 to date was \$2,176,095 compared to budgeted income of \$249,700, a positive variance of \$1,926,395.

### SOCIAL CONSIDERATIONS

Council's investments are managed in accordance with Council's Investment Policy. Council's Investment Policy requires consideration of social responsibility when making investment decisions.

### ENVIRONMENTAL CONSIDERATIONS

Council's investments are managed in accordance with Council's Investment Policy. Council's Investment Policy requires consideration of environmental responsibility when making investment decisions.

### GOVERNANCE AND RISK CONSIDERATIONS

A revised Investment Policy was adopted by Council at its meeting on 26 July 2022. The Policy is reviewed annually by the Audit, Risk and Improvement Committee. It was reviewed by the Committee at their meeting in December 2022, and no changes to the Policy were proposed, with the next review by the Committee due by December 2023.

Council's Investment Strategy was reviewed in November 2022 by Council's Investment Advisors, Laminar Capital Pty Ltd, who confirmed that the current policy "remains consistent with the Ministerial Investment Order and guidelines issued by the Chief Executive (Local Government), Department of Premier and Cabinet" and that they "do not recommend any changes to the list of approved investments or credit limit frameworks".



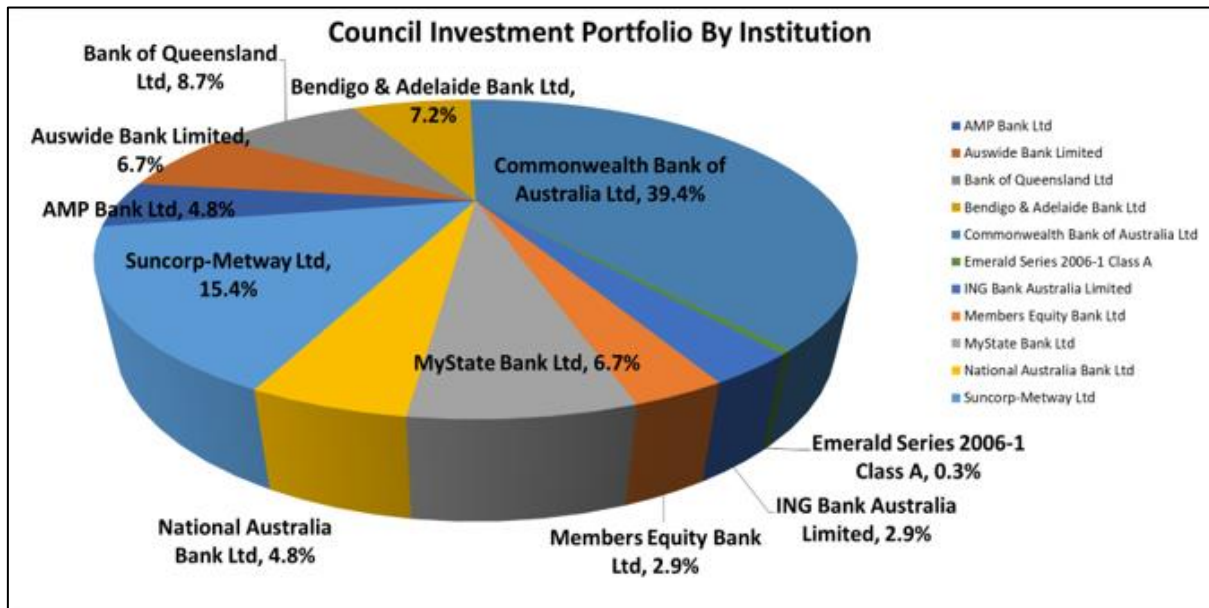
**Investment Balances**

<b>INVESTMENT BALANCES</b>				
As at 30-Nov-2022				
INSTITUTION	RATING	AMOUNT \$	MATURITY DATE	INTEREST RATE
<b>Trading Accounts</b>				
Commonwealth Bank of Australia Ltd	A1+	4,799,465		2.90%
National Australia Bank Ltd	A1+	9,855		2.85%
		<b>4,809,319</b>		
<b>At Call Accounts</b>				
Commonwealth Bank of Australia Ltd	A1+	2,783,996	At Call	2.95%
		<b>2,783,996</b>		
<b>Mortgage Backed Securities</b>				
Emerald Series 2006-1 Class A	A*	713,737	21-Aug-51	3.5201%
		<b>713,737</b>		
<b>Term Deposits</b>				
Members Equity Bank Ltd	A2	3,000,000	06-Dec-22	2.35%
Suncorp-Metway Ltd	A1	2,000,000	08-Dec-22	3.00%
National Australia Bank Ltd	A1+	2,000,000	13-Dec-22	3.01%
Auswide Bank Limited	A2	2,000,000	13-Dec-22	2.65%
Suncorp-Metway Ltd	A1	2,000,000	15-Dec-22	2.93%
Suncorp-Metway Ltd	A1	3,000,000	20-Dec-22	3.42%
National Australia Bank Ltd	A1+	2,000,000	20-Dec-22	3.09%
Suncorp-Metway Ltd	A1	2,000,000	21-Dec-22	3.35%
Suncorp-Metway Ltd	A1	3,000,000	03-Jan-23	3.42%
Suncorp-Metway Ltd	A1	2,000,000	05-Jan-23	3.20%
Suncorp-Metway Ltd	A1	2,000,000	10-Jan-23	3.23%
Bendigo & Adelaide Bank Ltd	A2	2,000,000	12-Jan-23	3.25%
Bendigo & Adelaide Bank Ltd	A2	3,000,000	17-Jan-23	3.25%
Bendigo & Adelaide Bank Ltd	A2	2,000,000	19-Jan-23	3.25%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	24-Jan-23	3.30%
Bendigo & Adelaide Bank Ltd	A2	2,000,000	24-Jan-23	3.25%
Bendigo & Adelaide Bank Ltd	A2	2,000,000	31-Jan-23	3.60%
ING Bank Australia Limited	A1	4,000,000	31-Jan-23	2.36%
MyState Bank Ltd	A2	2,000,000	02-Feb-23	3.50%
MyState Bank Ltd	A2	2,000,000	07-Feb-23	3.50%
MyState Bank Ltd	A2	2,000,000	09-Feb-23	3.50%
AMP Bank Ltd	A2	2,500,000	14-Feb-23	1.00%
Commonwealth Bank of Australia Ltd	A1+	1,000,000	15-Feb-23	3.47%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	16-Feb-23	3.52%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	21-Feb-23	3.54%
Commonwealth Bank of Australia Ltd	A1+	1,000,000	23-Feb-23	3.56%
Members Equity Bank Ltd	A2	3,000,000	28-Feb-23	3.60%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	07-Mar-23	3.47%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	09-Mar-23	3.58%
Commonwealth Bank of Australia Ltd	A1+	3,000,000	14-Mar-23	3.61%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	16-Mar-23	3.62%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	21-Mar-23	3.70%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	23-Mar-23	3.70%
AMP Bank Ltd	A2	2,000,000	28-Mar-23	4.00%
Bank of Queensland Ltd	A2	1,000,000	28-Mar-23	4.00%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	30-Mar-23	3.73%
Commonwealth Bank of Australia Ltd	A1+	4,000,000	04-Apr-23	3.78%
MyState Bank Ltd	A2	2,000,000	06-Apr-23	4.20%
Commonwealth Bank of Australia Ltd	A1+	3,000,000	11-Apr-23	3.80%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	13-Apr-23	3.81%
ING Bank Australia Limited	A1	2,000,000	18-Apr-23	2.30%
Commonwealth Bank of Australia Ltd	A1+	3,000,000	20-Apr-23	2.22%

<b>INVESTMENT BALANCES</b>				
As at 30-Nov-2022				
INSTITUTION	RATING	AMOUNT \$	MATURITY DATE	INTEREST RATE
<b>Term Deposits (continued)</b>				
Commonwealth Bank of Australia Ltd	A1+	2,000,000	26-Apr-23	3.80%
Commonwealth Bank of Australia Ltd	A1+	3,000,000	26-Apr-23	3.86%
Bank of Queensland Ltd	A2	2,000,000	02-May-23	3.76%
Bank of Queensland Ltd	A2	2,000,000	04-May-23	3.76%
Bank of Queensland Ltd	A2	3,000,000	09-May-23	3.76%
Bank of Queensland Ltd	A2	2,000,000	11-May-23	4.00%
Bendigo & Adelaide Bank Ltd	A2	2,000,000	16-May-23	4.10%
Suncorp-Metway Ltd	A1	2,000,000	16-May-23	4.26%
Suncorp-Metway Ltd	A1	2,000,000	18-May-23	4.26%
Bank of Queensland Ltd	A2	3,000,000	23-May-23	3.85%
Bendigo & Adelaide Bank Ltd	A2	2,000,000	25-May-23	4.10%
Commonwealth Bank of Australia Ltd	A1+	3,000,000	06-Jun-23	3.91%
Suncorp-Metway Ltd	A1	2,000,000	08-Jun-23	4.28%
Suncorp-Metway Ltd	A1	2,000,000	13-Jun-23	4.28%
MyState Bank Ltd	A2	2,000,000	14-Jun-23	3.90%
Suncorp-Metway Ltd	A1	2,000,000	15-Jun-23	4.22%
MyState Bank Ltd	A2	3,000,000	20-Jun-23	3.90%
National Australia Bank Ltd	A1+	2,000,000	22-Jun-23	4.12%
National Australia Bank Ltd	A1+	2,000,000	27-Jun-23	4.12%
National Australia Bank Ltd	A1+	2,000,000	29-Jun-23	4.13%
AMP Bank Ltd	A2	3,500,000	04-Jul-23	4.10%
MyState Bank Ltd	A2	1,000,000	06-Jul-23	4.35%
Suncorp-Metway Ltd	A1	2,000,000	11-Jul-23	4.21%
Suncorp-Metway Ltd	A1	2,000,000	13-Jul-23	4.21%
Commonwealth Bank of Australia Ltd	A1+	3,000,000	18-Jul-23	4.02%
Suncorp-Metway Ltd	A1	2,000,000	20-Jul-23	4.24%
Auswide Bank Limited	A2	3,000,000	25-Jul-23	4.40%
Auswide Bank Limited	A2	2,000,000	27-Jul-23	4.40%
Bank of Queensland Ltd	A2	3,000,000	01-Aug-23	4.05%
Bank of Queensland Ltd	A2	2,000,000	03-Aug-23	4.05%
Auswide Bank Limited	A2	2,000,000	08-Aug-23	4.40%
Auswide Bank Limited	A2	2,000,000	10-Aug-23	4.40%
Auswide Bank Limited	A2	3,000,000	15-Aug-23	4.40%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	21-Sep-23	4.32%
AMP Bank Ltd	A2	1,100,000	24-Oct-23	4.85%
AMP Bank Ltd	A2	900,000	24-Oct-23	4.85%
		<b>173,000,000</b>		
<b>Kimbriki Environmental Enterprises Pty Ltd</b>				
<b>Trading Accounts</b>				
Commonwealth Bank of Australia Ltd	A1+	456,676		2.90%
		<b>456,676</b>		
<b>At Call Accounts</b>				
Commonwealth Bank of Australia Ltd	A1+	395,904	At Call	2.95%
Commonwealth Bank of Australia Ltd	A1+	1,010,433	At Call	2.95%
		<b>1,406,337</b>		
<b>Term Deposits</b>				
Commonwealth Bank of Australia Ltd	A1+	1,000,000	01-Dec-22	2.43%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	05-Jan-23	3.00%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	01-Feb-23	3.27%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	01-Mar-23	3.38%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	14-Apr-23	3.88%
Commonwealth Bank of Australia Ltd	A1+	1,500,000	04-May-23	4.07%
Commonwealth Bank of Australia Ltd	A1+	13,893,187	28-Aug-23	4.12%
		<b>24,393,187</b>		
<b>Total Cash and Investments</b>		<b>207,563,253</b>		

\*Rating is based on a private rating advised by the issuer to Council's Investment Advisors.

## Portfolio Analysis



## Institutional Credit Framework – Compliance with Investment Policy Requirements

Clause 4.2.2 of Council's Investment Policy requires that the exposure to an individual institution be restricted by their credit rating so that single entity exposure is limited, as detailed in the table below:

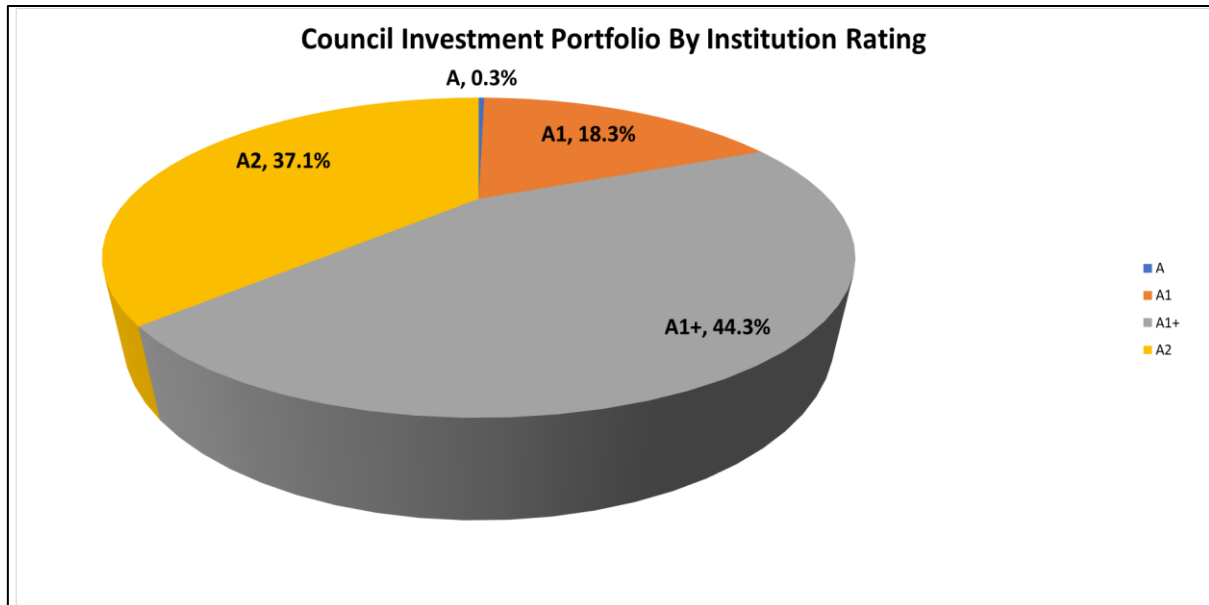
S&P Long Term Rating*	S&P Short Term Rating*	Maximum %	Portfolio Complies with Policy?
AAA (incl. government guaranteed deposits)	A-1+	50%	Yes
AA+			
AA			
AA-	A-1	40%	Yes
A+			
A			
A-	A-2	30%	Yes
BBB+			
BBB			
BBB-	A-3	10%	Yes
Unrated**TCorp Funds	Unrated**	5%	Yes (\$Nil)
Unrated***ADIs	Unrated***	\$250,000	Yes (\$Nil)

\* Or Moody's / Fitch equivalents

\*\* Unrated Category is restricted to eligible managed funds such as the NSW Treasury Corporation Hour Glass Facilities

\*\*\* Unrated ADIs Category is restricted to those ADIs that are under the Australian government guarantee scheme and limited to maximum \$250,000 per unrated ADI.

As Members Equity Bank is a fully owned subsidiary of Bank of Queensland, the holdings are combined to determine the maximum percentage which can be held under clause 4.2.2 (Institutional Credit Framework Guidelines) of Council’s Investment Policy.



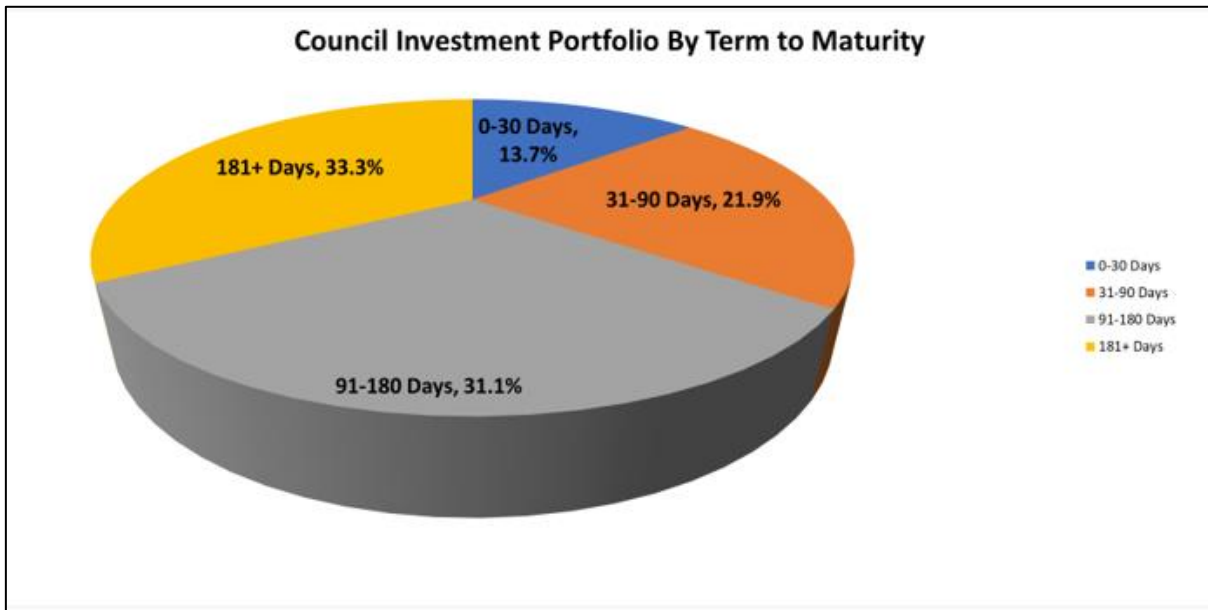
**Overall Portfolio Credit Framework – Compliance with Investment Policy Requirements**

Clause 4.2.1 of Council’s Investment Policy requires that the total percentage exposure within the market to any particular credit rating category be limited, as detailed in the table below:

S&P Long Term Rating*	S&P Short Term Rating*	Maximum %	Portfolio Complies with Policy?
AAA (incl. government guaranteed deposits)	A-1+	100%	Yes
AA+			
AA			
AA-			
A+	A-1	100%	Yes
A			
A-			
BBB+	A-2	80%	Yes
BBB			
BBB-	A-3	30%	Yes
Unrated**	Unrated**	5%	Yes (\$Nil)

\* Or Moody’s / Fitch equivalents

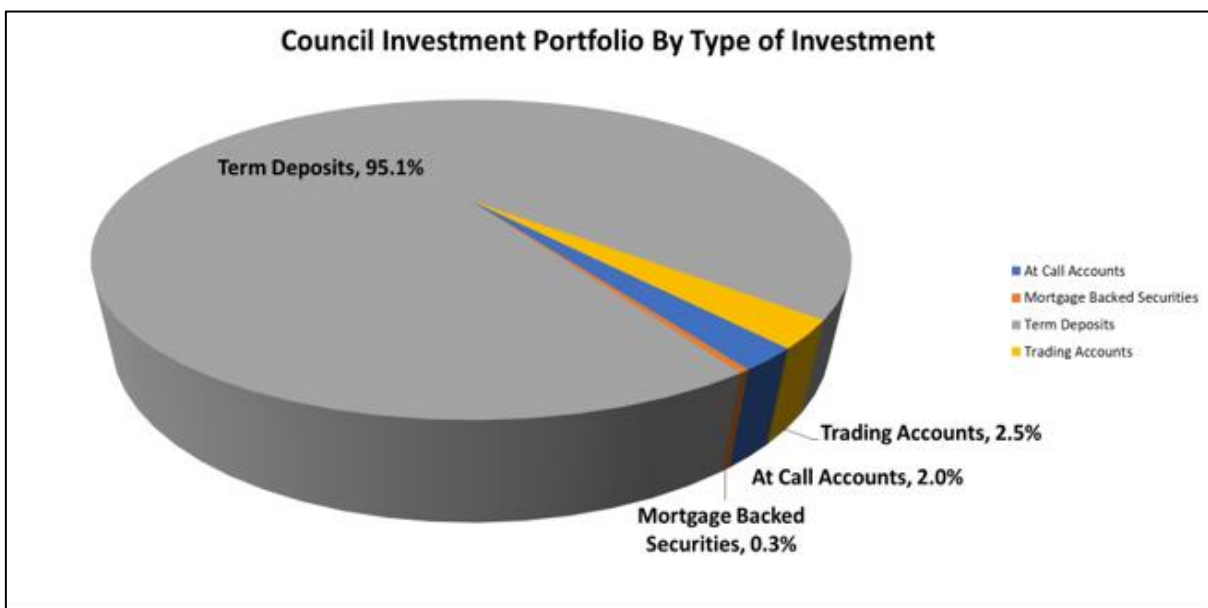
\*\* Unrated Category is restricted to eligible managed funds such as the NSW Treasury Corporation Hour Glass Facilities and ADIs covered by the government guarantee scheme.



**Term to Maturity Framework – Compliance with Investment Policy Requirements**

Clause 4.2.4 of Council’s Investment Policy requires Council’s investment portfolio is to be invested within the following maturity constraints:

Overall Portfolio Term to Maturity Limits			Portfolio Complies with Policy?
Portfolio % <1 year	Min 40%	Max 100%	<b>Yes</b>
Portfolio % >1 year ≤3 year	Min 0%	Max 60%	<b>Yes</b>
Portfolio % >3 year ≤5 year	Min 0%	Max 30%	<b>Yes</b>



**Investment Performance vs Benchmark**

**a) Portfolio Return vs Benchmark**

	<b>Investment Portfolio Return *</b>	<b>Benchmark: AusBond Bank Bill Index</b>
1 month	0.291%	0.25%
3 Months	0.798%	0.64%
FYTD	1.106%	0.92%
12 Months	1.472%	1.01%

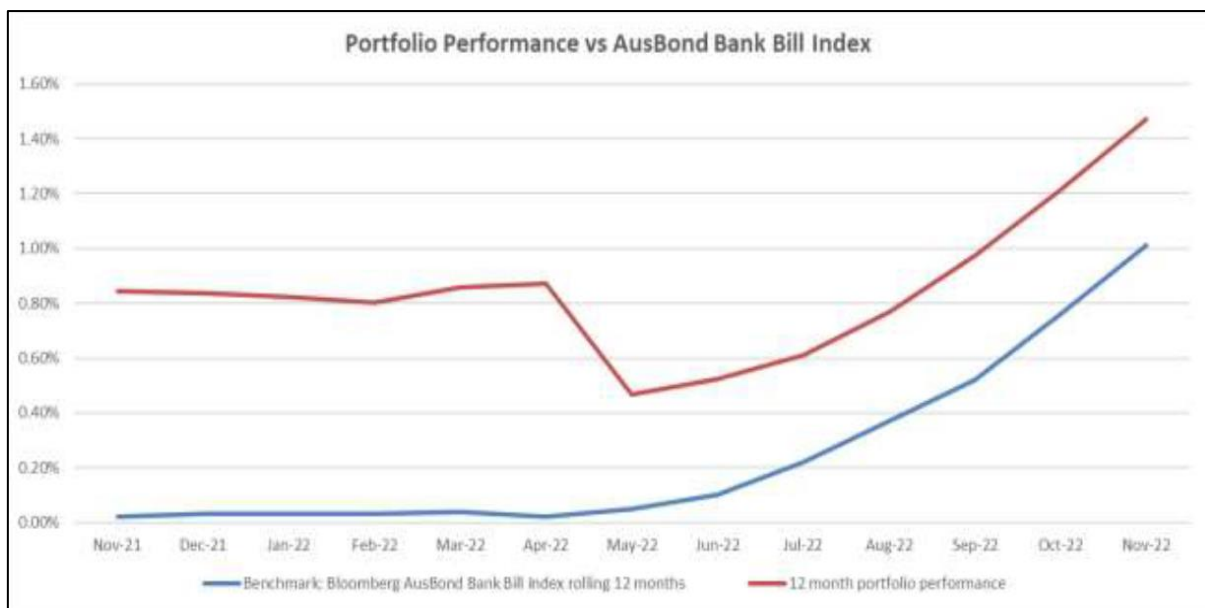
\* Excludes trading account balances

Council's Investment Advisors have stated this form of portfolio reporting conforms to global investment performance standards and that these standards say that periods below 12 months should not be annualised

The above table shows a comparison of Council's investment portfolio return to the benchmark. Council's Investment Advisor, Laminar Capital, has created an accumulation index for the portfolio which increases each month by the portfolio internal rate of return to enable meaningful comparison to the benchmark AusBond Bank Bill index, which is an accumulation index.

The Bloomberg AusBond Bank Bill Index is engineered to measure the Australian money market by representing a passively managed short term money market portfolio. This index is comprised of 13 synthetic instruments defined by rates interpolated from the RBA 24-hour cash rate, 1M BBSW, and 3M BBSW.

The portfolio achieved a return of 0.291% for the month of November which was 0.041% above the benchmark AusBond Bank Bill Index return of 0.25%. For the past 12 months the portfolio achieved a return of 1.472% which was 0.462% above the benchmark AusBond Bank Bill Index return of 1.01%.



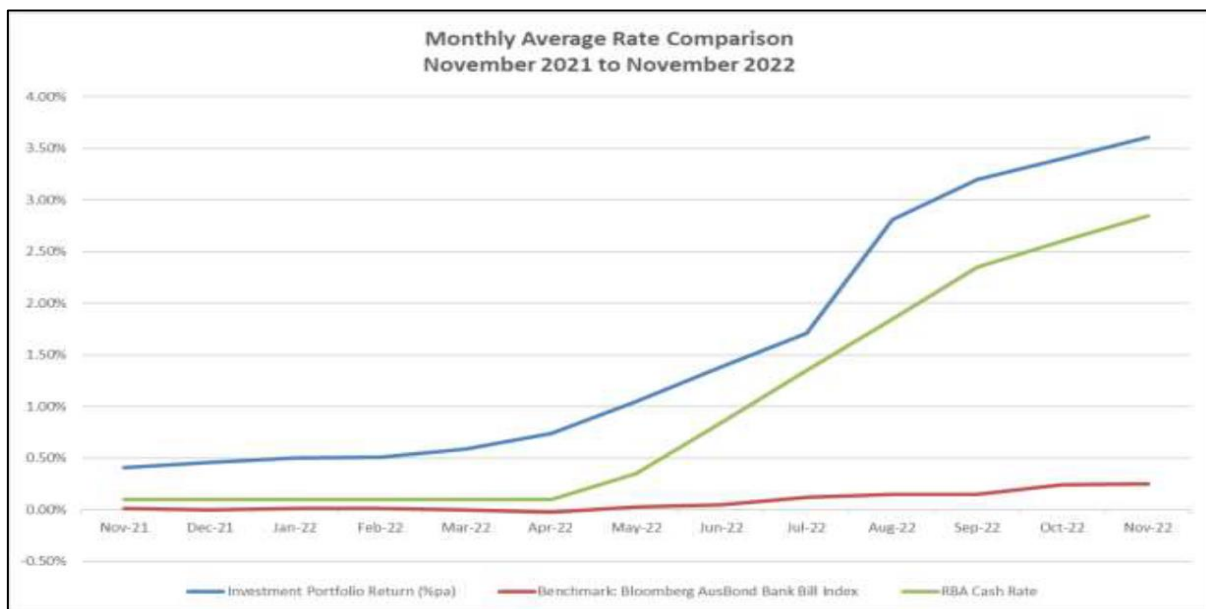
**b) Portfolio Interest Rate vs Benchmarks**

	Weighted Average Portfolio Interest Rate (%pa) *	Average Benchmark: AusBond Bank Bill Index	Average RBA Cash Rate
1 month	3.61%	0.25%	2.85%
3 Months	3.40%	0.21%	2.60%
6 Months	2.69%	0.16%	1.98%
FYTD	2.95%	0.18%	2.20%
12 Months	1.66%	0.08%	1.06%

\* Excludes trading account balances

The above table shows the weighted average interest rate of the portfolio as at month end. This is an average of all the interest rates that each term deposit is earning. It is the current earning rate of the portfolio and this information is useful as it shows how the earning rate is changing each month in line with changes in market interest rates. Each time a term deposit matures during the month it is being reinvested at current interest rates. To facilitate meaningful comparison, the weighted average interest rate of the portfolio is compared to the average AusBond Bank Bill Index and average RBA Cash Rate for the same period.

The weighted average interest rate of the portfolio is 3.61% compared to 3.40% for the prior month. For the past 12 months the weighted average interest rate of the portfolio was 1.66% compared to the average Ausbond Bank Bill movement of 0.08% and the average Reserve bank of Australia Cash Rate of 1.06%.

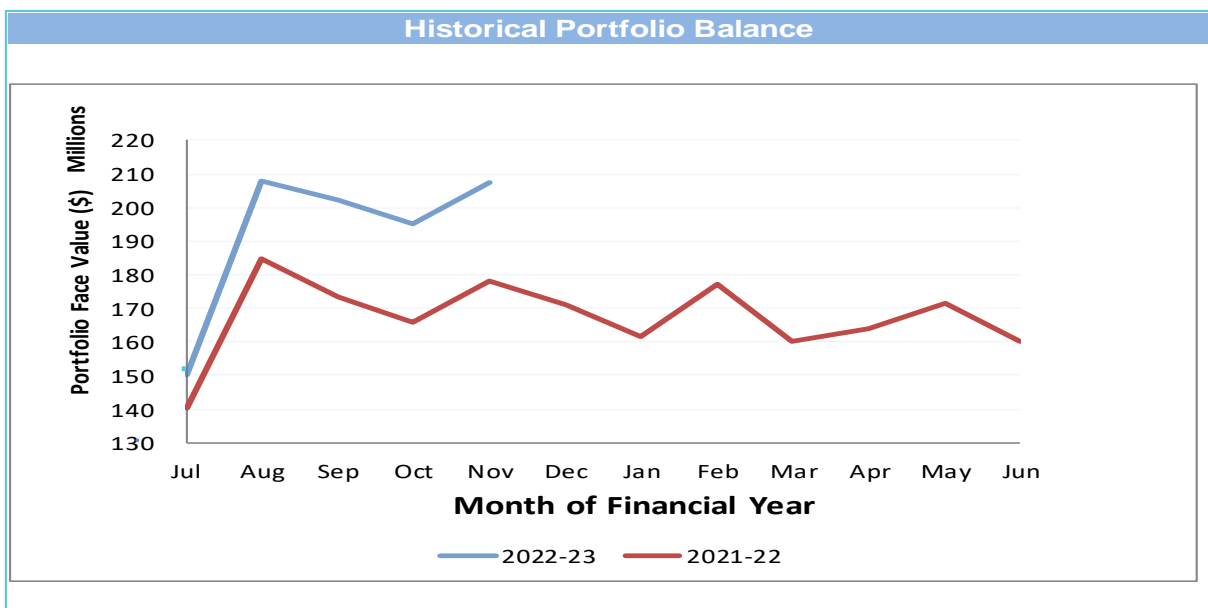


**Monthly Investment Income\* vs Budget**

	November 2022 \$	Year to Date \$
Investment Income	567,528	2,164,474
Adjustment for Fair Value	9,375	11,621
Total Investment Income	576,903	2,176,095
Budgeted Income	57,100	249,700

\*Includes all cash and investment holdings

Historical Portfolio Balance		
	2022-23	2021-22
<b>Jul</b>	150,084,380	140,264,007
<b>Aug</b>	207,972,249	184,686,438
<b>Sep</b>	202,385,068	173,325,287
<b>Oct</b>	195,360,642	166,006,688
<b>Nov</b>	207,563,253	178,085,861
<b>Dec</b>		170,911,655
<b>Jan</b>		161,545,259
<b>Feb</b>		176,973,362
<b>Mar</b>		160,133,548
<b>Apr</b>		163,852,294
<b>May</b>		171,636,374
<b>Jun</b>		160,160,643
<b>Average Portfolio Balance</b>	192,673,118	167,298,451





**Statement of Compliance**

Portfolio Performance vs Bank Bill Index over 12-month period.	✓	Council's investment performance did exceed benchmark.
Monthly Income vs Budget	✓	Council's income from investments did exceed monthly budget.

**Investment Policy Compliance**

Legislative Requirements	✓	Fully compliant
Portfolio Credit Rating Limit	✓	Fully compliant
Institutional Exposure Limits	✓	Fully compliant
Term to Maturity Limits	✓	Fully compliant

**Restricted cash, cash equivalents and investments**

The breakdown of restrictions is not available for the current month within the timeframe for the completion of the Monthly Investment. Accordingly, the total cash and investments and restrictions related thereto are presented for the previous month.

At the end of October 2022 total cash & investments were \$195,360,642 and were made up of the following reserve allocations.

Allocation of Funds	Amount (\$)	Percentage
Externally Restricted	48,158,636	24.65%
Internally Restricted	80,186,843	41.05%
Total Restricted	128,345,479	65.70%
Unrestricted	67,015,163	34.30%
Total	\$195,360,642	100.00%

## ECONOMIC NOTES

(Source: Primarily extracted from information supplied by Laminar Capital Pty Ltd)

Most leading economic indicators and rising central banks' official interest rates point towards global recession, but the latest household spending and labour market data in the US, Europe and Australia are still showing resilience. Annual inflation readings showed more signs of topping out in November in the US and Europe while Australia seems to be closing in on peak annual inflation. Central banks are starting to talk about hiking official interest rates in smaller increments although most still announced large hikes in November. The path still looks a long one towards returning annual inflation to central banks' targets indicating that once official interest rates peak, the stay at the peak may be longer than it has been in the past – around three months on average for the US.

In the US, leading economic indicators weakened further in November. Housing indicators were weak mostly. The November National Association of Homebuilders' index fell to a cycle low 33 from 38 in October, a far cry from the 70+ readings a year ago. October building permits, housing starts, and existing home sales fell respectively m-o-m by 2.4%; 4.2%; and 5.9%. Exceptions to the weakness in the housing figures were September pending home sales, up 0.8% m-o-m and October new home sales, up 7.5%. The October ISM purchasing managers' reports for the manufacturing and non-manufacturing sectors slipped to respectively 50.2 (September 50.9) and 54.4 (September 56.7). The November readings out in early December are likely to see at least one slip below the 50 expansion/contraction line, although readings in the low-to-mid 40s in the past have been harbingers of recession.

In China, economic data released in November remained weak beset by the continuing downturn in the property sector, the lockdowns used to control Omicron outbreaks, and softening global demand for China's exports. October exports and imports were both weaker than expected. October fixed asset investment spending moderated to +5.8% y-o-y from +5.9% in September and October industrial production to +5.2% y-o-y from +6.3% y-o-y in September. The greatest damage from sporadic and unpredictable covid-containment lockdowns showed in retail sales, 0.5% y-o-y in October from +2.5% y-o-y in September. Rare signs of opposition to President Xi and his policies showed in civil protests in some cities. China's economic growth rate will continue to languish while current lockdown policies persist. An ill wind on the economic growth front is delivering inflation that is very low by international standards.

Europe continues to teeter on the edge of recession but is not quite there yet. A milder than usual autumn so far in Western Europe is providing hope that energy supply shortages and price hikes may not be as great as widely feared in the approaching winter. European Q3 GDP growth lifted 0.2% q-o-q, 2.1% y-o-y. Leading European economic indicators point towards recession with the November manufacturing and service sectors PMIs at respectively, 47.3 and 48.6. September retail sales rose 0.3% m-o-m and the unemployment rate is still hugging the cycle low point at 6.6%. CPI inflation at 10.6% y-o-y in October was probably at its peak for this cycle but is unlikely to recede fast given that producer prices are up over 40% y-o-y. The ECB is indicating that fighting high inflation is the key policy aim, even at the risk of adding to the risk of recession. In the UK, where economic growth has turned negative, the Bank of England has no choice but to continue hiking interest rates to contain double-digit annual inflation.

Australia is an example of the split between soft leading economic indicators and surprisingly strong coincident and lagging indicators threatening to keep inflation too high for too long. Housing activity at the leading edge continued to weaken in November under pressure from higher borrowing interest rates. House prices are falling at the fastest pace in 40 years. In September, the value of housing finance commitments was down by 8.2% m-o-m and down by 18.5% y-o-y. September home building approvals were down by 5.8% m-o-m and were down by 13.0% y-o-y. As more fixed-rate home loans written in 2020 and 2021 come up for renewal over coming months and the RBA hikes the cash rate at least two more times, housing activity looks set to weaken further.

<b>ITEM 9.4</b>	<b>MONTHLY INVESTMENT REPORT - DECEMBER 2022</b>
<b>REPORTING MANAGER</b>	<b>CHIEF FINANCIAL OFFICER</b>
<b>TRIM FILE REF</b>	<b>2023/009842</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

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## SUMMARY

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### PURPOSE

To provide a report setting out details of all money that Council has invested under section 625 of the *Local Government Act 1993*.

### EXECUTIVE SUMMARY

In accordance with section 212 of the Local Government (General) Regulation 2021, a report setting out the details of money invested must be presented to Council on a monthly basis.

The report must also include certification as to whether or not the investments have been made in accordance with the Act, the Regulations and Council's Investment Policy.

The Investment Report shows that Council has total cash and investments of \$196,306,324 comprising:

- Trading Accounts           \$4,030,625
- Investments                 \$192,275,699

The portfolio achieved a return of 0.311% for the month of November which was 0.061% above the benchmark AusBond Bank Bill Index return of 0.25%. For the past 12 months the portfolio achieved a return of 1.754% which was 0.504% above the benchmark AusBond Bank Bill Index return of 1.25%.

The weighted average interest rate of the portfolio is 3.70% compared to 3.61% for the prior month. For the past 12 months the weighted average interest rate of the portfolio was 1.93% compared to the average Ausbond Bank Bill movement of 0.10% and the average Reserve Bank of Australia Cash Rate of 1.31%.

### Certification – Responsible Accounting Officer

I hereby certify that the investments listed in the attached reports have been made in accordance with section 625 of the *Local Government Act 1993*, section 212 of the Local Government (General) Regulation 2021 and existing Investment Policies.

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### RECOMMENDATION OF DIRECTOR CORPORATE AND LEGAL

That Council note the Investment Report as at 31 December 2022, including the certification by the Responsible Accounting Officer.

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**REPORT**

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**BACKGROUND**

In accordance with section 212 of the Local Government (General) Regulation 2021, a report setting out the details of money invested must be presented to Council on a monthly basis.

The report must also include certification as to whether or not the investments have been made in accordance with the Act, the Regulations and Council's Investment Policy.

**LINK TO STRATEGY**

This report relates to the Community Strategic Plan Outcome of:

- Good governance - Goal 19 Our Council is transparent and trusted to make decisions that reflect the values of the community

**FINANCIAL CONSIDERATIONS**

Actual investment income for the period from 1 July 2022 to date was \$2,807,131 compared to budgeted income of \$307,400, a positive variance of \$2,499,731.

**SOCIAL CONSIDERATIONS**

Council's investments are managed in accordance with Council's Investment Policy. Council's Investment Policy requires consideration of social responsibility when making investment decisions.

**ENVIRONMENTAL CONSIDERATIONS**

Council's investments are managed in accordance with Council's Investment Policy. Council's Investment Policy requires consideration of environmental responsibility when making investment decisions.

**GOVERNANCE AND RISK CONSIDERATIONS**

A revised Investment Policy was adopted by Council at its meeting on 26 July 2022. The Policy is reviewed annually by the Audit, Risk and Improvement Committee. It was reviewed by the Committee at their meeting in December 2022, and no changes to the Policy were proposed, with the next review by the Committee due by December 2023.

Council's Investment Strategy was reviewed in November 2022 by Council's Investment Advisors, Laminar Capital Pty Ltd, who confirmed that the current policy "remains consistent with the Ministerial Investment Order and guidelines issued by the Chief Executive (Local Government), Department of Premier and Cabinet" and that they "do not recommend any changes to the list of approved investments or credit limit frameworks".

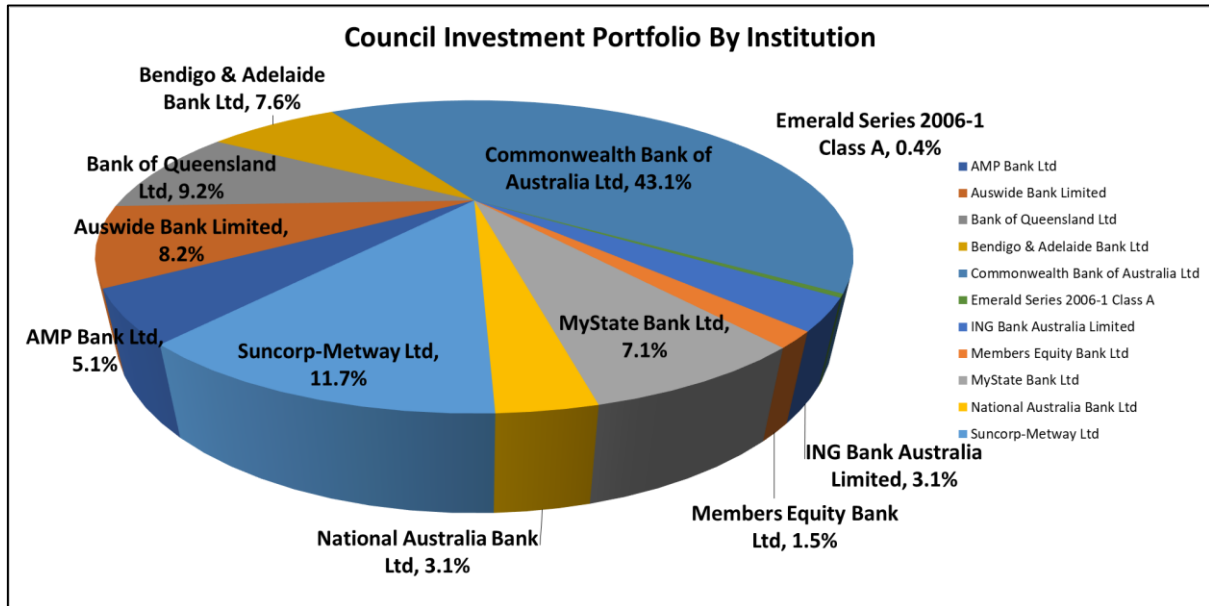
**Investment Balances**

<b>INVESTMENT BALANCES</b>				
As at 31-Dec-2022				
INSTITUTION	RATING	AMOUNT \$	MATURITY DATE	INTEREST RATE
<b>Trading Accounts</b>				
Commonwealth Bank of Australia Ltd	A1+	3,562,894		3.15%
National Australia Bank Ltd	A1+	5,466		3.10%
		<u>3,568,361</u>		
<b>At Call Accounts</b>				
Commonwealth Bank of Australia Ltd	A1+	4,927,282	At Call	3.20%
		<u>4,927,282</u>		
<b>Mortgage Backed Securities</b>				
Emerald Series 2006-1 Class A	A*	713,737	21-Aug-51	3.5201%
		<u>713,737</u>		
<b>Term Deposits</b>				
Suncorp-Metway Ltd	A1	3,000,000	03-Jan-23	3.42%
Suncorp-Metway Ltd	A1	2,000,000	05-Jan-23	3.20%
Suncorp-Metway Ltd	A1	2,000,000	10-Jan-23	3.23%
Bendigo & Adelaide Bank Ltd	A2	2,000,000	12-Jan-23	3.25%
Bendigo & Adelaide Bank Ltd	A2	3,000,000	17-Jan-23	3.25%
Bendigo & Adelaide Bank Ltd	A2	2,000,000	19-Jan-23	3.25%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	24-Jan-23	3.30%
Bendigo & Adelaide Bank Ltd	A2	2,000,000	24-Jan-23	3.25%
Bendigo & Adelaide Bank Ltd	A2	2,000,000	31-Jan-23	3.60%
ING Bank Australia Limited	A1	4,000,000	31-Jan-23	2.36%
MyState Bank Ltd	A2	2,000,000	02-Feb-23	3.50%
MyState Bank Ltd	A2	2,000,000	07-Feb-23	3.50%
MyState Bank Ltd	A2	2,000,000	09-Feb-23	3.50%
AMP Bank Ltd	A2	2,500,000	14-Feb-23	1.00%
Commonwealth Bank of Australia Ltd	A1+	1,000,000	15-Feb-23	3.47%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	16-Feb-23	3.52%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	21-Feb-23	3.54%
Commonwealth Bank of Australia Ltd	A1+	1,000,000	23-Feb-23	3.56%
Members Equity Bank Ltd	A2	3,000,000	28-Feb-23	3.60%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	07-Mar-23	3.47%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	09-Mar-23	3.58%
Commonwealth Bank of Australia Ltd	A1+	3,000,000	14-Mar-23	3.61%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	16-Mar-23	3.62%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	21-Mar-23	3.70%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	23-Mar-23	3.70%
Bank of Queensland Ltd	A2	1,000,000	28-Mar-23	4.00%
AMP Bank Ltd	A2	2,000,000	28-Mar-23	4.00%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	30-Mar-23	3.73%
Commonwealth Bank of Australia Ltd	A1+	4,000,000	04-Apr-23	3.78%
MyState Bank Ltd	A2	2,000,000	06-Apr-23	4.20%
Commonwealth Bank of Australia Ltd	A1+	3,000,000	11-Apr-23	3.80%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	13-Apr-23	3.81%
ING Bank Australia Limited	A1	2,000,000	18-Apr-23	2.30%
Commonwealth Bank of Australia Ltd	A1+	3,000,000	20-Apr-23	2.22%
Commonwealth Bank of Australia Ltd	A1+	3,000,000	26-Apr-23	3.86%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	26-Apr-23	3.80%
Bank of Queensland Ltd	A2	2,000,000	02-May-23	3.76%
Bank of Queensland Ltd	A2	2,000,000	04-May-23	3.76%
Bank of Queensland Ltd	A2	3,000,000	09-May-23	3.76%
Bank of Queensland Ltd	A2	2,000,000	11-May-23	4.00%

<b>INVESTMENT BALANCES</b>				
As at 31-Dec-2022				
INSTITUTION	RATING	AMOUNT \$	MATURITY DATE	INTEREST RATE
<b>Term Deposits (continued)</b>				
Suncorp-Metway Ltd	A1	2,000,000	16-May-23	4.26%
Bendigo & Adelaide Bank Ltd	A2	2,000,000	16-May-23	4.10%
Suncorp-Metway Ltd	A1	2,000,000	18-May-23	4.26%
Bank of Queensland Ltd	A2	3,000,000	23-May-23	3.85%
Bendigo & Adelaide Bank Ltd	A2	2,000,000	25-May-23	4.10%
Commonwealth Bank of Australia Ltd	A1+	3,000,000	06-Jun-23	3.91%
Suncorp-Metway Ltd	A1	2,000,000	08-Jun-23	4.28%
Suncorp-Metway Ltd	A1	2,000,000	13-Jun-23	4.28%
MyState Bank Ltd	A2	2,000,000	14-Jun-23	3.90%
Suncorp-Metway Ltd	A1	2,000,000	15-Jun-23	4.22%
MyState Bank Ltd	A2	3,000,000	20-Jun-23	3.90%
National Australia Bank Ltd	A1+	2,000,000	22-Jun-23	4.12%
National Australia Bank Ltd	A1+	2,000,000	27-Jun-23	4.12%
National Australia Bank Ltd	A1+	2,000,000	29-Jun-23	4.13%
AMP Bank Ltd	A2	3,500,000	04-Jul-23	4.10%
Auswide Bank Limited	A2	2,000,000	06-Jul-23	4.40%
MyState Bank Ltd	A2	1,000,000	06-Jul-23	4.35%
Suncorp-Metway Ltd	A1	2,000,000	11-Jul-23	4.21%
Suncorp-Metway Ltd	A1	2,000,000	13-Jul-23	4.21%
Commonwealth Bank of Australia Ltd	A1+	3,000,000	18-Jul-23	4.02%
Suncorp-Metway Ltd	A1	2,000,000	20-Jul-23	4.24%
Auswide Bank Limited	A2	3,000,000	25-Jul-23	4.40%
Auswide Bank Limited	A2	2,000,000	27-Jul-23	4.40%
Bank of Queensland Ltd	A2	3,000,000	01-Aug-23	4.05%
Bank of Queensland Ltd	A2	2,000,000	03-Aug-23	4.05%
Auswide Bank Limited	A2	2,000,000	08-Aug-23	4.40%
Auswide Bank Limited	A2	2,000,000	10-Aug-23	4.40%
Auswide Bank Limited	A2	3,000,000	15-Aug-23	4.40%
Auswide Bank Limited	A2	2,000,000	17-Aug-23	4.40%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	21-Sep-23	4.32%
AMP Bank Ltd	A2	900,000	24-Oct-23	4.85%
AMP Bank Ltd	A2	1,100,000	24-Oct-23	4.85%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	21-Nov-23	4.52%
		<b>161,000,000</b>		
<b>Kimbriki Environmental Enterprises Pty Ltd</b>				
<b>Trading Accounts</b>				
Commonwealth Bank of Australia Ltd	A1+	462,264		3.15%
		<b>462,264</b>		
<b>At Call Accounts</b>				
Commonwealth Bank of Australia Ltd	A1+	528,204	At Call	3.20%
Commonwealth Bank of Australia Ltd	A1+	713,287	At Call	3.20%
		<b>1,241,492</b>		
<b>Term Deposits</b>				
Commonwealth Bank of Australia Ltd	A1+	2,000,000	05-Jan-23	3.00%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	01-Feb-23	3.27%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	01-Mar-23	3.38%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	14-Apr-23	3.88%
Commonwealth Bank of Australia Ltd	A1+	1,500,000	04-May-23	4.07%
Commonwealth Bank of Australia Ltd	A1+	1,000,000	01-Jun-23	4.17%
Commonwealth Bank of Australia Ltd	A1+	13,893,187	28-Aug-23	4.12%
		<b>24,393,187</b>		
<b>Total Cash and Investments</b>		<b>196,306,324</b>		

\*Rating is based on a private rating advised by the issuer to Council's Investment Advisors.

## Portfolio Analysis



## Institutional Credit Framework – Compliance with Investment Policy Requirements

Clause 4.2.2 of Council's Investment Policy requires that the exposure to an individual institution be restricted by their credit rating so that single entity exposure is limited, as detailed in the table below:

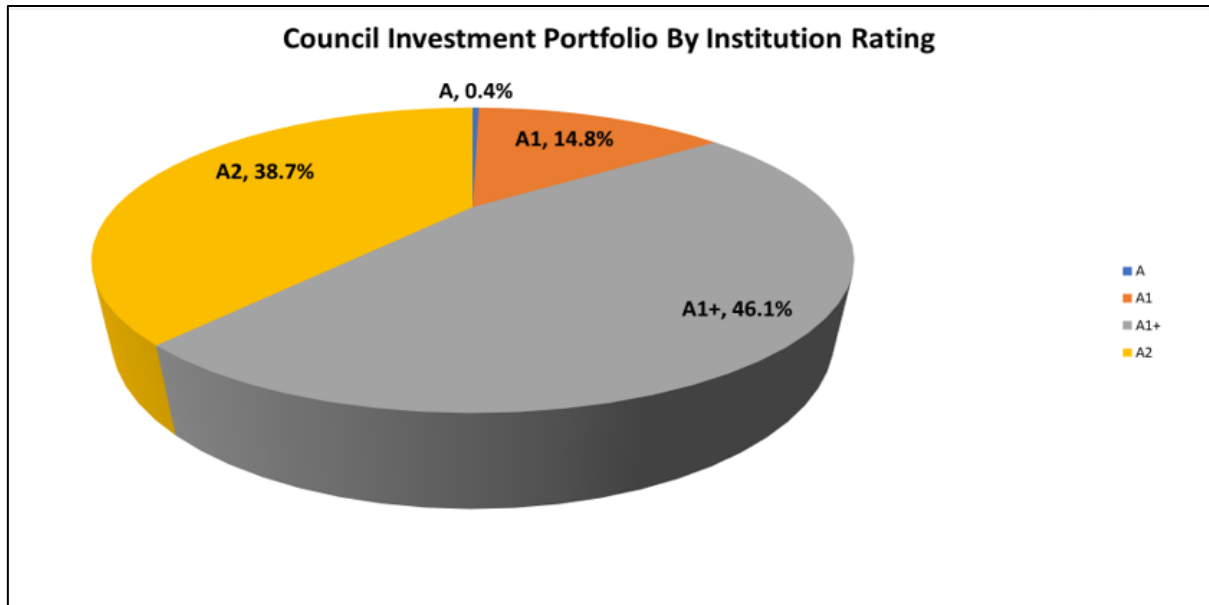
S&P Long Term Rating*	S&P Short Term Rating*	Maximum %	Portfolio Complies with Policy?
AAA (incl. government guaranteed deposits)	A-1+	50%	Yes
AA+			
AA			
AA-	A-1	40%	Yes
A+			
A			
A-	A-2	30%	Yes
BBB+			
BBB			
BBB-	A-3	10%	Yes
Unrated**TCorp Funds	Unrated**	5%	Yes (\$Nil)
Unrated***ADIs	Unrated***	\$250,000	Yes (\$Nil)

\* Or Moody's / Fitch equivalents

\*\* Unrated Category is restricted to eligible managed funds such as the NSW Treasury Corporation Hour Glass Facilities

\*\*\* Unrated ADIs Category is restricted to those ADIs that are under the Australian government guarantee scheme and limited to maximum \$250,000 per unrated ADI.

As Members Equity Bank is a fully owned subsidiary of Bank of Queensland, the holdings are combined to determine the maximum percentage which can be held under clause 4.2.2 (Institutional Credit Framework Guidelines) of Council’s Investment Policy.



**Overall Portfolio Credit Framework – Compliance with Investment Policy Requirements**

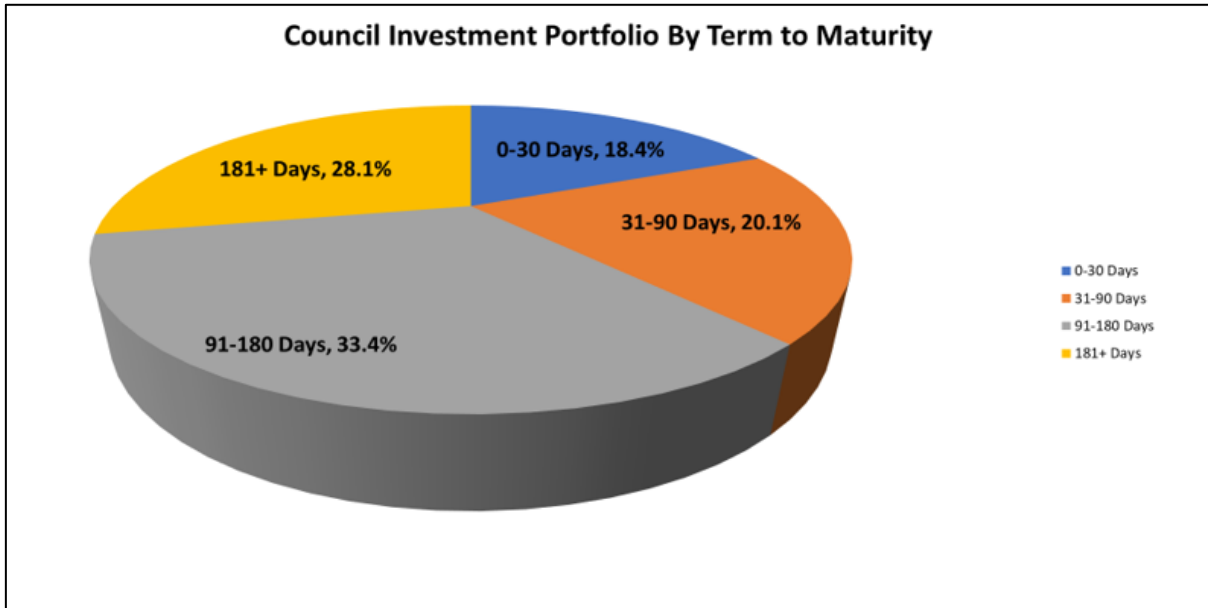
Clause 4.2.1 of Council’s Investment Policy requires that the total percentage exposure within the market to any particular credit rating category be limited, as detailed in the table below:

S&P Long Term Rating*	S&P Short Term Rating*	Maximum %	Portfolio Complies with Policy?
AAA (incl. government guaranteed deposits)	A-1+	100%	Yes
AA+			
AA			
AA-			
A+	A-1	100%	Yes
A			
A-			
BBB+	A-2	80%	Yes
BBB			
BBB-	A-3	30%	Yes
Unrated**	Unrated**	5%	Yes (\$Nil)

\* Or Moody’s / Fitch equivalents

\*\* Unrated Category is restricted to eligible managed funds such as the NSW Treasury Corporation Hour Glass Facilities and ADIs covered by the government guarantee scheme.

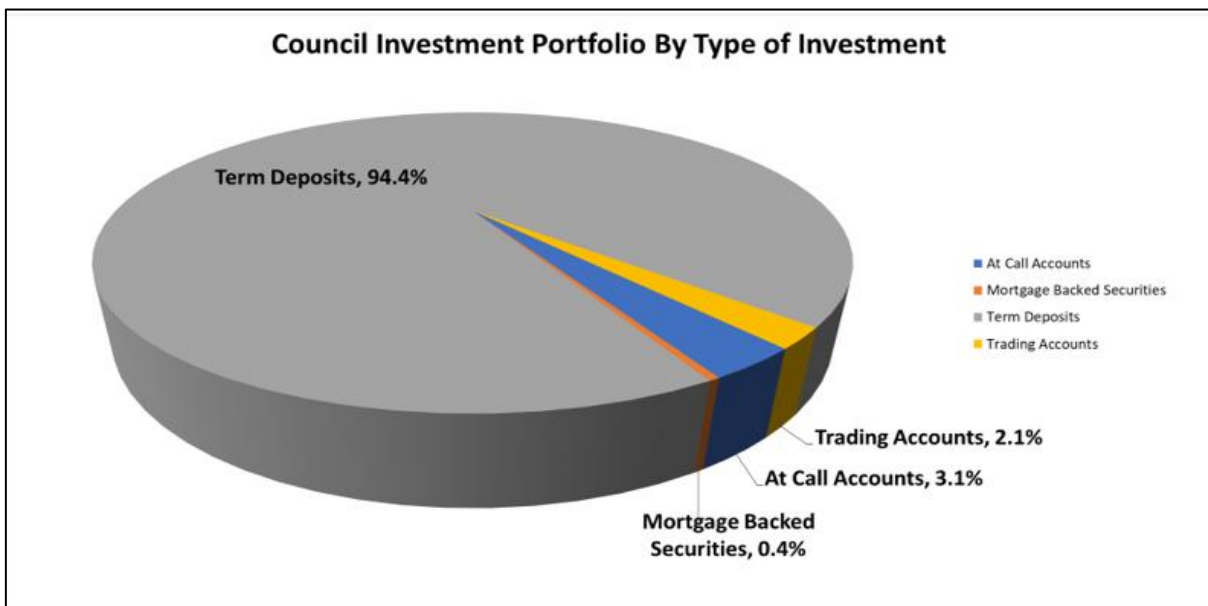




**Term to Maturity Framework – Compliance with Investment Policy Requirements**

Clause 4.2.4 of Council’s Investment Policy requires Council’s investment portfolio is to be invested within the following maturity constraints:

Overall Portfolio Term to Maturity Limits			Portfolio Complies with Policy?
Portfolio % <1 year	Min 40%	Max 100%	<b>Yes</b>
Portfolio % >1 year ≤3 year	Min 0%	Max 60%	<b>Yes</b>
Portfolio % >3 year ≤5 year	Min 0%	Max 30%	<b>Yes</b>



**Investment Performance vs Benchmark**

**a) Portfolio Return vs Benchmark**

	<b>Investment Portfolio Return *</b>	<b>Benchmark: AusBond Bank Bill Index</b>
1 month	0.311%	0.25%
3 Months	0.875%	0.74%
FYTD	1.419%	1.17%
12 Months	1.754%	1.25%

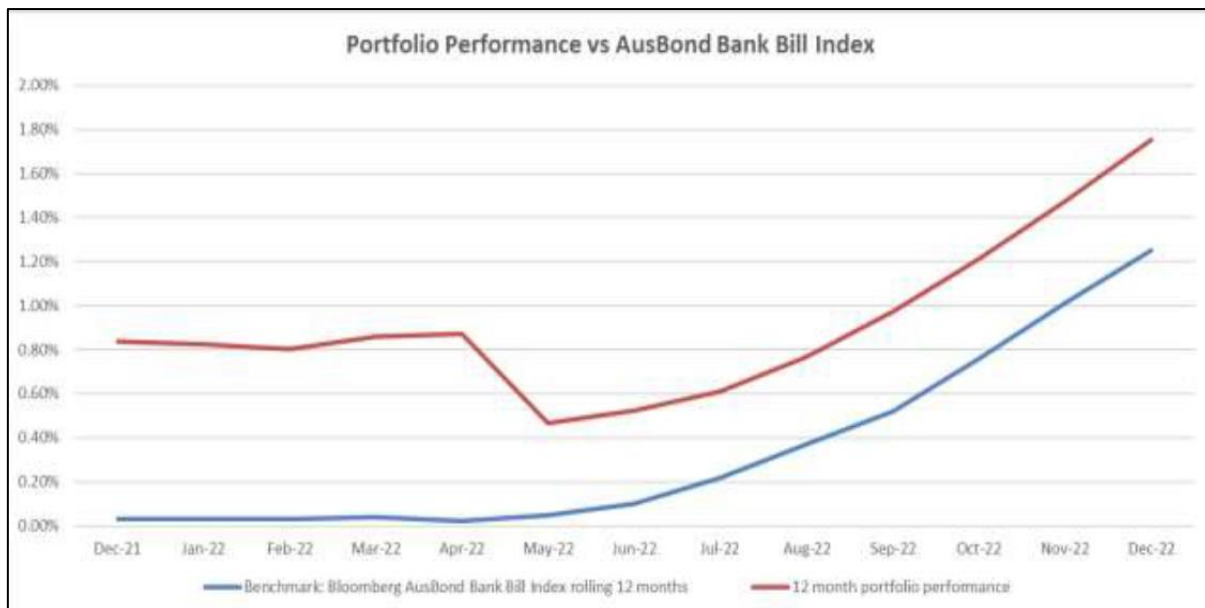
\* Excludes trading account balances

Council's Investment Advisors have stated this form of portfolio reporting conforms to global investment performance standards and that these standards say that periods below 12 months should not be annualised

The above table shows a comparison of Council's investment portfolio return to the benchmark. Council's Investment Advisor, Laminar Capital, has created an accumulation index for the portfolio which increases each month by the portfolio internal rate of return to enable meaningful comparison to the benchmark AusBond Bank Bill index, which is an accumulation index.

The Bloomberg AusBond Bank Bill Index is engineered to measure the Australian money market by representing a passively managed short term money market portfolio. This index is comprised of 13 synthetic instruments defined by rates interpolated from the RBA 24-hour cash rate, 1M BBSW, and 3M BBSW.

The portfolio achieved a return of 0.311% for the month of December which was 0.061% above the benchmark AusBond Bank Bill Index return of 0.25%. For the past 12 months the portfolio achieved a return of 1.754% which was 0.504% above the benchmark AusBond Bank Bill Index return of 1.25%.



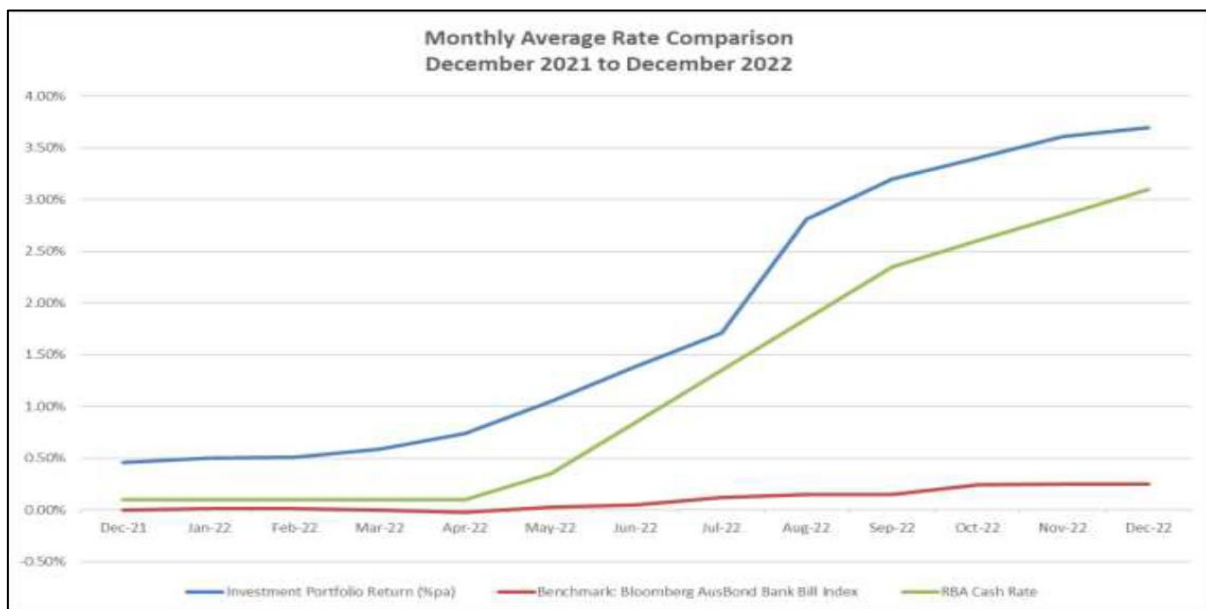
**b) Portfolio Interest Rate vs Benchmarks**

	Weighted Average Portfolio Interest Rate (%pa) *	Average Benchmark: AusBond Bank Bill Index	Average RBA Cash Rate
1 month	3.70%	0.25%	3.10%
3 Months	3.57%	0.25%	2.85%
6 Months	3.07%	0.19%	2.35%
FYTD	3.07%	0.19%	2.35%
12 Months	1.93%	0.10%	1.31%

\* Excludes trading account balances

The above table shows the weighted average interest rate of the portfolio as at month end. This is an average of all the interest rates that each term deposit is earning. It is the current earning rate of the portfolio and this information is useful as it shows how the earning rate is changing each month in line with changes in market interest rates. Each time a term deposit matures during the month it is being reinvested at current interest rates. To facilitate meaningful comparison, the weighted average interest rate of the portfolio is compared to the average AusBond Bank Bill Index and average RBA Cash Rate for the same period.

The weighted average interest rate of the portfolio is 3.70% compared to 3.61% for the prior month. For the past 12 months the weighted average interest rate of the portfolio was 1.93% compared to the average Ausbond Bank Bill movement of 0.10% and the average Reserve bank of Australia Cash Rate of 1.31%.

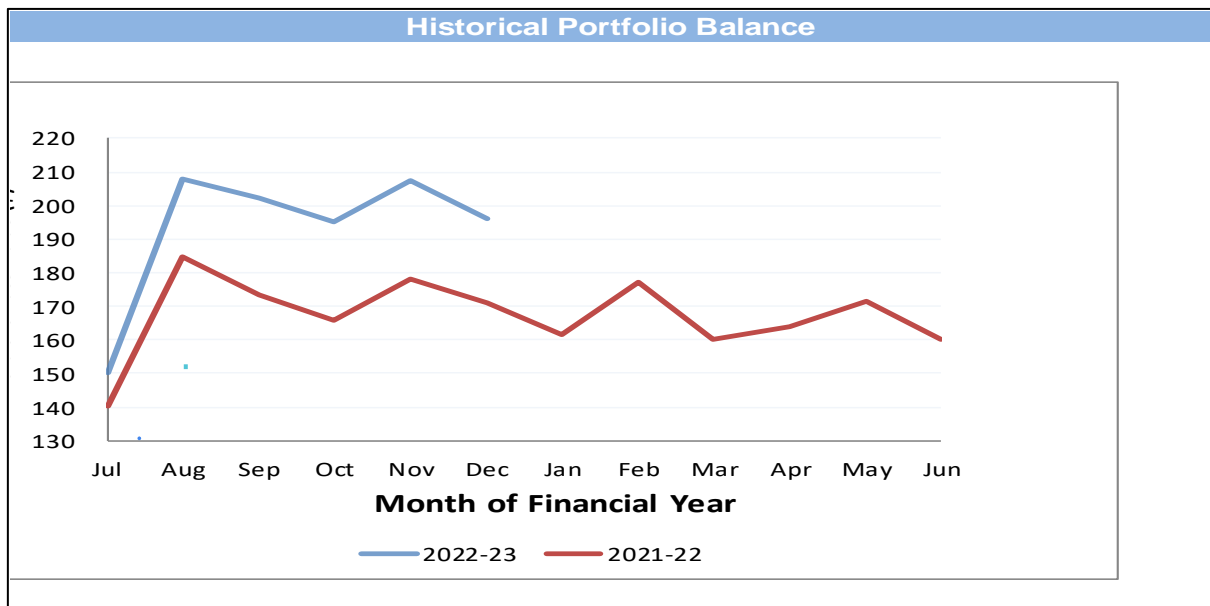


**Monthly Investment Income\* vs Budget**

	December 2022 \$	Year to Date \$
Investment Income	631,036	2,795,510
Adjustment for Fair Value	0	11,621
Total Investment Income	631,036	2,807,131
Budgeted Income	57,700	307,400

\*Includes all cash and investment holdings

Historical Portfolio Balance		
	2022-23	2021-22
<b>Jul</b>	150,084,380	140,264,007
<b>Aug</b>	207,972,249	184,686,438
<b>Sep</b>	202,385,068	173,325,287
<b>Oct</b>	195,360,642	166,006,688
<b>Nov</b>	207,563,253	178,085,861
<b>Dec</b>	196,306,324	170,911,655
<b>Jan</b>		161,545,259
<b>Feb</b>		176,973,362
<b>Mar</b>		160,133,548
<b>Apr</b>		163,852,294
<b>May</b>		171,636,374
<b>Jun</b>		160,160,643
<b>Average Portfolio Balance</b>	193,278,653	167,298,451



**Statement of Compliance**

Portfolio Performance vs Bank Bill Index over 12-month period.	✓	Council's investment performance did exceed benchmark.
Monthly Income vs Budget	✓	Council's income from investments did exceed monthly budget.

**Investment Policy Compliance**

Legislative Requirements	✓	Fully compliant
Portfolio Credit Rating Limit	✓	Fully compliant
Institutional Exposure Limits	✓	Fully compliant
Term to Maturity Limits	✓	Fully compliant

**Restricted cash, cash equivalents and investments**

The breakdown of restrictions is not available for the current month within the timeframe for the completion of the Monthly Investment. Accordingly, the total cash and investments and restrictions related thereto are presented for the previous month.

At the end of November 2022 total cash & investments were \$207,563,253 and were made up of the following reserve allocations.

Allocation of Funds	Amount (\$)	Percentage
Externally Restricted	48,758,318	23.49%
Internally Restricted	78,254,839	37.70%
Total Restricted	127,013,157	61.19%
Unrestricted	80,550,096	38.81%
Total	\$207,563,253	100.00%

## ECONOMIC NOTES

(Source: Primarily extracted from information supplied by Laminar Capital Pty Ltd)

Bond, credit and share markets fell in December amid concerns that central banks may need to underpin higher interest rates for longer to return inflation to their targets. A longer period of higher interest rates would increase the already high risk of a global recession developing through 2023. The first week of 2023 has seen markets take an optimistic turn driven by hope that inflation is starting to recede and a sign in the US that annual wage growth may have peaked.

The US Federal Reserve (Fed) has made it clear that the tightness of the US labour market is what it is watching most keenly to determine whether inflation will return to target over time. While the wage growth reading in the December payrolls report says peak wage growth has passed, the strength of other readings including strong non-farm payrolls growth (up 223,000 in December) and the unemployment rate falling to 3.5% from 3.6% in November say that US labour market conditions are still very tight.

Financial market optimism in the first week of 2023 is likely to be challenged if the Fed sticks to its script of doing what is necessary to return inflation to 2% target over time. Even if annual US CPI inflation falls again when the December reading is released later this week (market expectation +0.1% m-o-m, +6.5% y-o-y from +0.1%, 7.1% in November), low unemployment in December and annual growth in average hourly earnings although down to 4.6% y-o-y, still imply the best hope for US annual inflation is that it falls to 4% over the next year, double the Fed's target.

The first Fed policy meeting of 2023 at the end of this month is likely to see another hike in the Fed funds rate from 4.50%, probably to 5.00% and that still may not be the last rate hike.

Back in December, financial markets were still attuned to the idea that not only the US Federal Reserve, but most other central banks, still had more work ahead lifting official interest rates. Major share markets mostly fell between 1.6% for the FTSE 100 and 5.9% for the US S&P 500. Australia's ASX 200 fell by 3.6%. Exceptions to the share market losses were China's CSI 300, up 0.4% and Hong Kong's Hang Seng, up 5.9%, both markets responding positively to China's rapid removal of Covid restrictions.

Credit markets weakened in December and like other markets have found a little strength early in 2023. So far, the deterioration in Australian credit quality has been modest. Essentially, very strong employment conditions are helping Australian households cope with higher interest payments on debt. It remains less certain whether Australia will experience recession in 2023 widely expected for the US and Europe. A more resilient Australian economy than elsewhere may come with the sting in the tail that the RBA has a relatively tougher task ahead bringing inflation back to 2-3% target range. The RBA's official interest rate currently at 3.10% may not need to be raised much more, but it may need to be held at a higher rate for longer and with relatively little leeway for rate cuts further down the track.

Australian housing, the most interest rate sensitive part of the Australian economy and already the weakest part of the economy is likely to suffer further decline through 2023. Previous RBA policy actions are having lagged effect on housing. Variable interest rate mortgage borrowers are just starting to feel the impact in their monthly repayments of the November and December RBA rate decisions.

Two and three-year fixed rate mortgage borrowers who entered their commitment in boom-time numbers back in 2020 and 2021 at very low interest rates face rolling over at monthly repayments double and more in the first few months of 2023. Mortgage repayment pain intensifies sharply early this year and could become acute later in the year if the labour market weakens.

At the start of 2023 the task facing the RBA remains challenging. Annual inflation may top out less than 8.0% y-o-y forecast previously courtesy of less extreme upward pressure on petrol and food prices. However, the resilience of the economy and the labour market point to inflation being stickier on the way down and unlikely to return to 2-3% target band this year or next year.

<b>ITEM 9.5</b>	<b>MONTHLY INVESTMENT REPORT - JANUARY 2023</b>
<b>REPORTING MANAGER</b>	<b>CHIEF FINANCIAL OFFICER</b>
<b>TRIM FILE REF</b>	<b>2023/077695</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

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## SUMMARY

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### PURPOSE

To provide a report setting out details of all money that Council has invested under section 625 of the *Local Government Act 1993*.

### EXECUTIVE SUMMARY

In accordance with section 212 of the Local Government (General) Regulation 2021, a report setting out the details of money invested must be presented to Council on a monthly basis.

The report must also include certification as to whether or not the investments have been made in accordance with the Act, the Regulations and Council's Investment Policy.

The Investment Report shows that Council has total cash and investments of \$187,257,340 comprising:

- Trading Accounts           \$2,029,272
- Investments                 \$185,228,068

The portfolio achieved a return of 0.307% for the month of January which was 0.037% above the benchmark AusBond Bank Bill Index return of 0.27%. For the past 12 months the portfolio achieved a return of 2.032% which was 0.512% above the benchmark AusBond Bank Bill Index return of 1.52%.

The weighted average interest rate of the portfolio is 3.85% compared to 3.70% for the prior month. For the past 12 months the weighted average interest rate of the portfolio was 2.21% compared to the average Ausbond Bank Bill movement of 0.13% and the average Reserve Bank of Australia Cash Rate of 1.56%.

### Certification – Responsible Accounting Officer

I hereby certify that the investments listed in the attached reports have been made in accordance with section 625 of the *Local Government Act 1993*, section 212 of the Local Government (General) Regulation 2021 and existing Investment Policies.

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### RECOMMENDATION OF DIRECTOR CORPORATE AND LEGAL

That Council note the Investment Report as at 31 January 2023, including the certification by the Responsible Accounting Officer.

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**REPORT**

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**BACKGROUND**

In accordance with section 212 of the Local Government (General) Regulation 2021, a report setting out the details of money invested must be presented to Council on a monthly basis.

The report must also include certification as to whether or not the investments have been made in accordance with the Act, the Regulations and Council's Investment Policy.

**LINK TO STRATEGY**

This report relates to the Community Strategic Plan Outcome of:

- Good governance - Goal 19 Our Council is transparent and trusted to make decisions that reflect the values of the community

**FINANCIAL CONSIDERATIONS**

Actual investment income for the period from 1 July 2022 to date was \$3,410,265 compared to budgeted income of \$359,000, a positive variance of \$3,051,265.

**SOCIAL CONSIDERATIONS**

Council's investments are managed in accordance with Council's Investment Policy. Council's Investment Policy requires consideration of social responsibility when making investment decisions.

**ENVIRONMENTAL CONSIDERATIONS**

Council's investments are managed in accordance with Council's Investment Policy. Council's Investment Policy requires consideration of environmental responsibility when making investment decisions.

**GOVERNANCE AND RISK CONSIDERATIONS**

A revised Investment Policy was adopted by Council at its meeting on 26 July 2022. The Policy is reviewed annually by the Audit, Risk and Improvement Committee. It was reviewed by the Committee at their meeting in December 2022, and no changes to the Policy were proposed, with the next review by the Committee due by December 2023.

Council's Investment Strategy was reviewed in November 2022 by Council's Investment Advisors, Laminar Capital Pty Ltd, who confirmed that the current policy "remains consistent with the Ministerial Investment Order and guidelines issued by the Chief Executive (Local Government), Department of Premier and Cabinet" and that they "do not recommend any changes to the list of approved investments or credit limit frameworks".



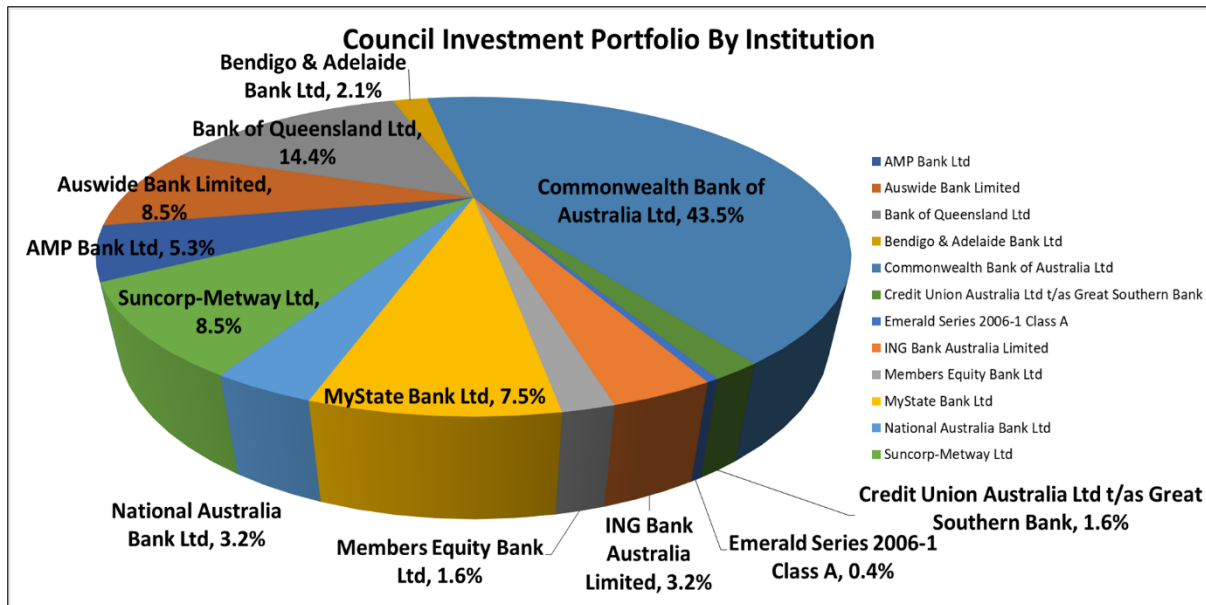
**Investment Balances**

<b>INVESTMENT BALANCES</b>				
As at 31-Jan-2023				
INSTITUTION	RATING	AMOUNT \$	MATURITY DATE	INTEREST RATE
<b>Trading Accounts</b>				
Commonwealth Bank of Australia Ltd	A1+	1,068,702		3.15%
National Australia Bank Ltd	A1+	3,809		3.10%
		<u>1,072,511</u>		
<b>At Call Accounts</b>				
Commonwealth Bank of Australia Ltd	A1+	6,041,204	At Call	3.20%
		<u>6,041,204</u>		
<b>Mortgage Backed Securities</b>				
Emerald Series 2006-1 Class A	A*	713,737	21-Aug-51	3.5201%
		<u>713,737</u>		
<b>Term Deposits</b>				
MyState Bank Ltd	A2	2,000,000	02-Feb-23	3.50%
MyState Bank Ltd	A2	2,000,000	07-Feb-23	3.50%
MyState Bank Ltd	A2	2,000,000	09-Feb-23	3.50%
AMP Bank Ltd	A2	2,500,000	14-Feb-23	1.00%
Commonwealth Bank of Australia Ltd	A1+	1,000,000	15-Feb-23	3.47%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	16-Feb-23	3.52%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	21-Feb-23	3.54%
Commonwealth Bank of Australia Ltd	A1+	1,000,000	23-Feb-23	3.56%
Members Equity Bank Ltd	A2	3,000,000	28-Feb-23	3.60%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	07-Mar-23	3.47%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	09-Mar-23	3.58%
Commonwealth Bank of Australia Ltd	A1+	3,000,000	14-Mar-23	3.61%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	16-Mar-23	3.62%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	21-Mar-23	3.70%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	23-Mar-23	3.70%
Bank of Queensland Ltd	A2	1,000,000	28-Mar-23	4.00%
AMP Bank Ltd	A2	2,000,000	28-Mar-23	4.00%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	30-Mar-23	3.73%
Commonwealth Bank of Australia Ltd	A1+	4,000,000	04-Apr-23	3.78%
MyState Bank Ltd	A2	2,000,000	06-Apr-23	4.20%
Commonwealth Bank of Australia Ltd	A1+	3,000,000	11-Apr-23	3.80%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	13-Apr-23	3.81%
ING Bank Australia Limited	A1	2,000,000	18-Apr-23	2.30%
Commonwealth Bank of Australia Ltd	A1+	3,000,000	20-Apr-23	2.22%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	26-Apr-23	3.80%
Commonwealth Bank of Australia Ltd	A1+	3,000,000	26-Apr-23	3.86%
Bank of Queensland Ltd	A2	2,000,000	02-May-23	3.76%
Bank of Queensland Ltd	A2	2,000,000	04-May-23	3.76%
Bank of Queensland Ltd	A2	3,000,000	09-May-23	3.76%
Bank of Queensland Ltd	A2	2,000,000	11-May-23	4.00%
Suncorp-Metway Ltd	A1	2,000,000	16-May-23	4.26%
Bendigo & Adelaide Bank Ltd	A2	2,000,000	16-May-23	4.10%
Suncorp-Metway Ltd	A1	2,000,000	18-May-23	4.26%
Bank of Queensland Ltd	A2	3,000,000	23-May-23	3.85%
Bendigo & Adelaide Bank Ltd	A2	2,000,000	25-May-23	4.10%
Commonwealth Bank of Australia Ltd	A1+	3,000,000	06-Jun-23	3.91%
Suncorp-Metway Ltd	A1	2,000,000	08-Jun-23	4.28%
Suncorp-Metway Ltd	A1	2,000,000	13-Jun-23	4.28%
MyState Bank Ltd	A2	2,000,000	14-Jun-23	3.90%
Suncorp-Metway Ltd	A1	2,000,000	15-Jun-23	4.22%

<b>INVESTMENT BALANCES</b>				
As at 31-Jan-2023				
INSTITUTION	RATING	AMOUNT \$	MATURITY DATE	INTEREST RATE
<b>Term Deposits (continued)</b>				
MyState Bank Ltd	A2	3,000,000	20-Jun-23	3.90%
National Australia Bank Ltd	A1+	2,000,000	22-Jun-23	4.12%
National Australia Bank Ltd	A1+	2,000,000	27-Jun-23	4.12%
National Australia Bank Ltd	A1+	2,000,000	29-Jun-23	4.13%
AMP Bank Ltd	A2	3,500,000	04-Jul-23	4.10%
Auswide Bank Limited	A2	2,000,000	06-Jul-23	4.40%
MyState Bank Ltd	A2	1,000,000	06-Jul-23	4.35%
Suncorp-Metway Ltd	A1	2,000,000	11-Jul-23	4.21%
Suncorp-Metway Ltd	A1	2,000,000	13-Jul-23	4.21%
Commonwealth Bank of Australia Ltd	A1+	3,000,000	18-Jul-23	4.02%
Suncorp-Metway Ltd	A1	2,000,000	20-Jul-23	4.24%
Auswide Bank Limited	A2	3,000,000	25-Jul-23	4.40%
Auswide Bank Limited	A2	2,000,000	27-Jul-23	4.40%
Bank of Queensland Ltd	A2	3,000,000	01-Aug-23	4.05%
Bank of Queensland Ltd	A2	2,000,000	03-Aug-23	4.05%
Auswide Bank Limited	A2	2,000,000	08-Aug-23	4.40%
Auswide Bank Limited	A2	2,000,000	10-Aug-23	4.40%
Auswide Bank Limited	A2	3,000,000	15-Aug-23	4.40%
Auswide Bank Limited	A2	2,000,000	17-Aug-23	4.40%
Bank of Queensland Ltd	A2	2,000,000	22-Aug-23	4.25%
Bank of Queensland Ltd	A2	2,000,000	24-Aug-23	4.25%
Bank of Queensland Ltd	A2	3,000,000	29-Aug-23	4.25%
Bank of Queensland Ltd	A2	2,000,000	05-Sep-23	4.25%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	21-Sep-23	4.32%
AMP Bank Ltd	A2	1,100,000	24-Oct-23	4.85%
AMP Bank Ltd	A2	900,000	24-Oct-23	4.85%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	21-Nov-23	4.52%
ING Bank Australia Limited	A1	4,000,000	05-Dec-23	4.57%
Credit Union Australia Ltd t/as Great Southern Ba	A2	3,000,000	30-Jan-24	4.65%
		<b>153,000,000</b>		
<b>Kimbriki Environmental Enterprises Pty Ltd</b>				
<b>Trading Accounts</b>				
Commonwealth Bank of Australia Ltd	A1+	956,761		3.15%
		<b>956,761</b>		
<b>At Call Accounts</b>				
Commonwealth Bank of Australia Ltd	A1+	131,491	At Call	3.20%
Commonwealth Bank of Australia Ltd	A1+	1,218,254	At Call	3.20%
		<b>1,349,745</b>		
<b>Term Deposits</b>				
Commonwealth Bank of Australia Ltd	A1+	2,000,000	01-Feb-23	3.27%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	01-Mar-23	3.38%
Commonwealth Bank of Australia Ltd	A1+	2,000,000	14-Apr-23	3.88%
Commonwealth Bank of Australia Ltd	A1+	1,500,000	04-May-23	4.07%
Commonwealth Bank of Australia Ltd	A1+	1,000,000	01-Jun-23	4.17%
Commonwealth Bank of Australia Ltd	A1+	1,000,000	07-Jul-23	4.37%
Commonwealth Bank of Australia Ltd	A1+	13,893,187	28-Aug-23	4.12%
Commonwealth Bank of Australia Ltd	A1+	730,194	28-Aug-23	4.43%
		<b>24,123,382</b>		
<b>Total Cash and Investments</b>		<b>187,257,340</b>		

\*Rating is based on a private rating advised by the issuer to Council's Investment Advisors.

## Portfolio Analysis



## Institutional Credit Framework – Compliance with Investment Policy Requirements

Clause 4.2.2 of Council's Investment Policy requires that the exposure to an individual institution be restricted by their credit rating so that single entity exposure is limited, as detailed in the table below:

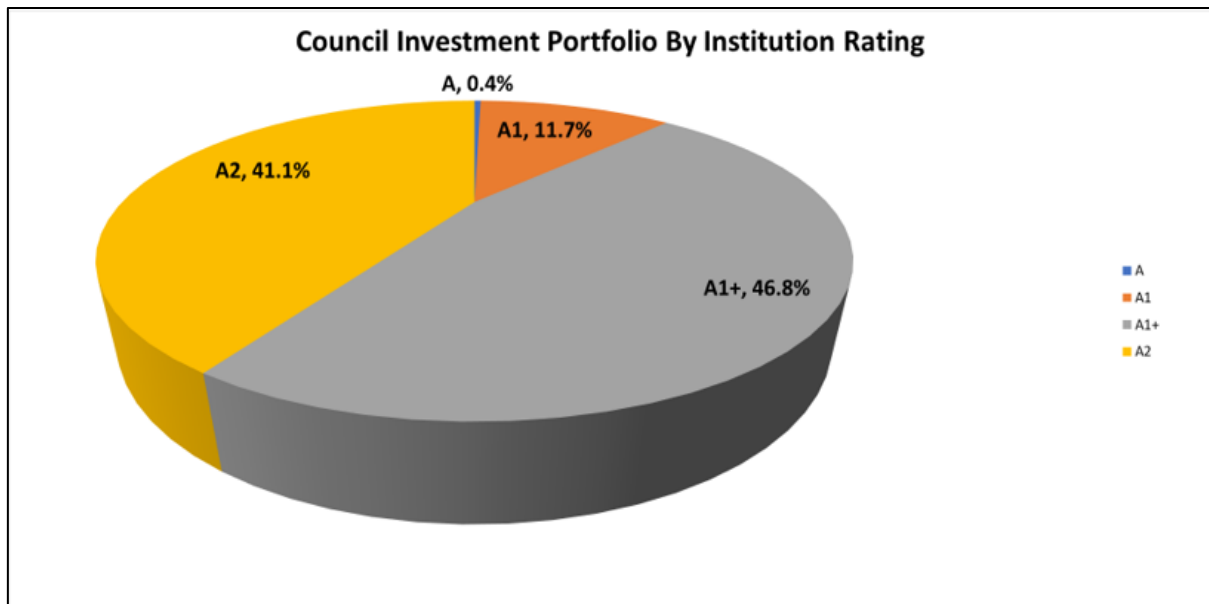
S&P Long Term Rating*	S&P Short Term Rating*	Maximum %	Portfolio Complies with Policy?
AAA (incl. government guaranteed deposits)	A-1+	50%	Yes
AA+			
AA			
AA-			
A+	A-1	40%	Yes
A			
A-			
BBB+	A-2	30%	Yes
BBB			
BBB-			
Unrated**TCorp Funds	Unrated**	5%	Yes (\$Nil)
Unrated***ADIs	Unrated***	\$250,000	Yes (\$Nil)

\* Or Moody's / Fitch equivalents

\*\* Unrated Category is restricted to eligible managed funds such as the NSW Treasury Corporation Hour Glass Facilities

\*\*\* Unrated ADIs Category is restricted to those ADIs that are under the Australian government guarantee scheme and limited to maximum \$250,000 per unrated ADI.

As Members Equity Bank is a fully owned subsidiary of Bank of Queensland, the holdings are combined to determine the maximum percentage which can be held under clause 4.2.2 (Institutional Credit Framework Guidelines) of Council’s Investment Policy.



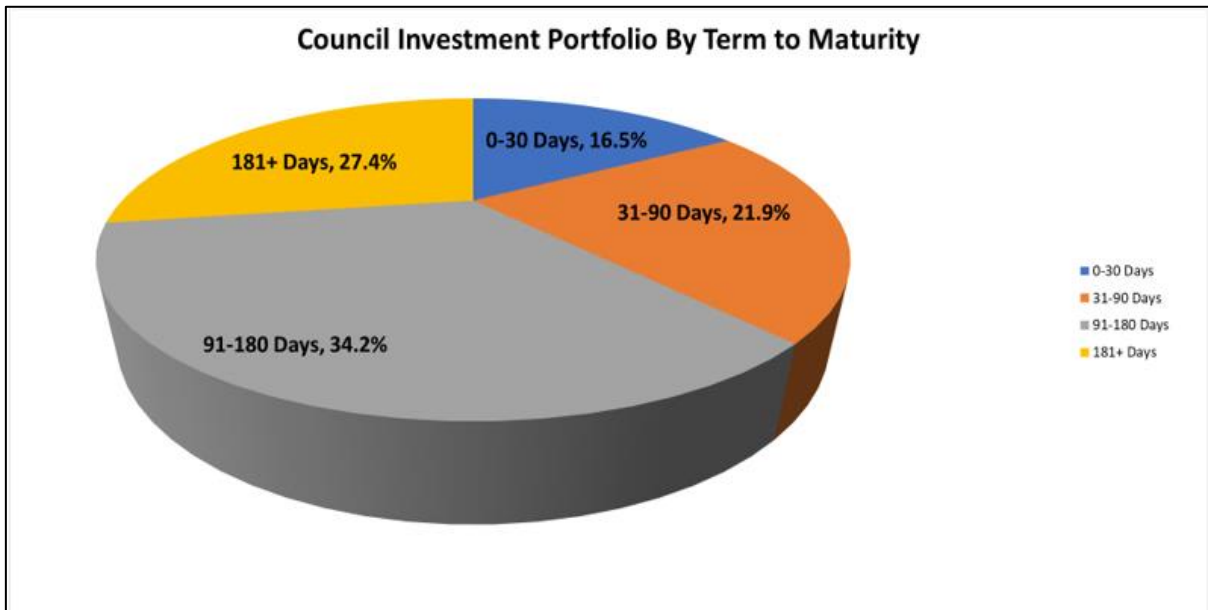
### Overall Portfolio Credit Framework – Compliance with Investment Policy Requirements

Clause 4.2.1 of Council’s Investment Policy requires that the total percentage exposure within the market to any particular credit rating category be limited, as detailed in the table below:

S&P Long Term Rating*	S&P Short Term Rating*	Maximum %	Portfolio Complies with Policy?
AAA (incl. government guaranteed deposits)	A-1+	100%	Yes
AA+			
AA			
AA-			
A+	A-1	100%	Yes
A			
A-			
BBB+	A-2	80%	Yes
BBB			
BBB-	A-3	30%	Yes
Unrated**	Unrated**	5%	Yes (\$Nil)

\* Or Moody’s / Fitch equivalents

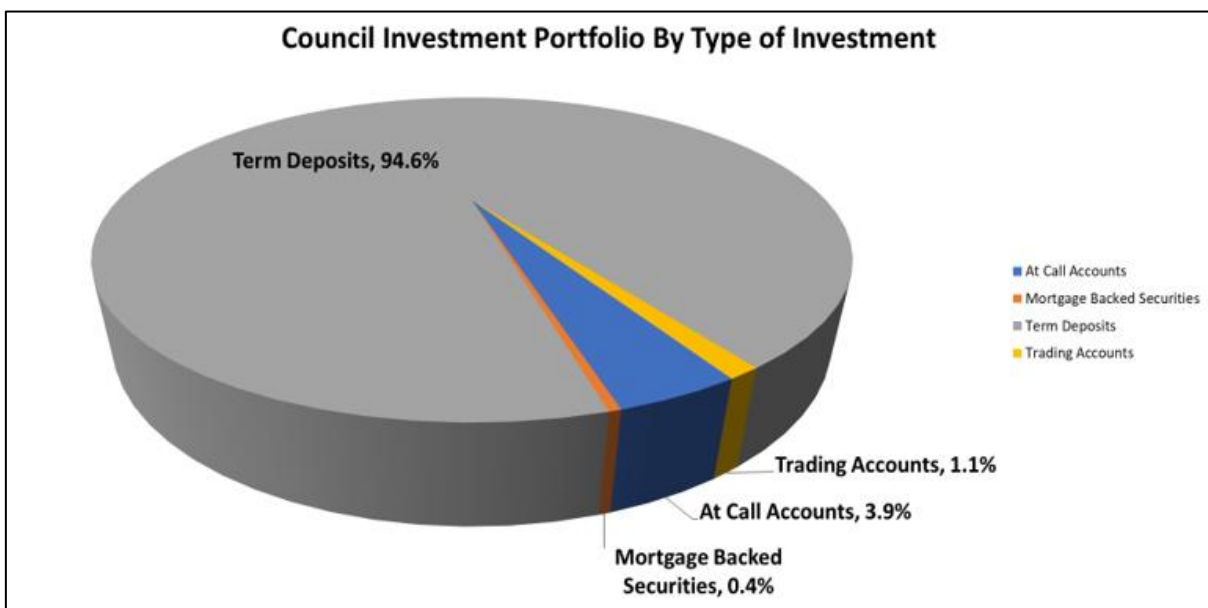
\*\* Unrated Category is restricted to eligible managed funds such as the NSW Treasury Corporation Hour Glass Facilities and ADIs covered by the government guarantee scheme.



### Term to Maturity Framework – Compliance with Investment Policy Requirements

Clause 4.2.4 of Council’s Investment Policy requires Council’s investment portfolio is to be invested within the following maturity constraints:

Overall Portfolio Term to Maturity Limits			Portfolio Complies with Policy?
Portfolio % <1 year	Min 40%	Max 100%	<b>Yes</b>
Portfolio % >1 year ≤3 year	Min 0%	Max 60%	<b>Yes</b>
Portfolio % >3 year ≤5 year	Min 0%	Max 30%	<b>Yes</b>



**Investment Performance vs Benchmark**

**a) Portfolio Return vs Benchmark**

	<b>Investment Portfolio Return *</b>	<b>Benchmark: AusBond Bank Bill Index</b>
1 month	0.307%	0.27%
3 Months	0.918%	0.77%
FYTD	1.736%	1.44%
12 Months	2.032%	1.52%

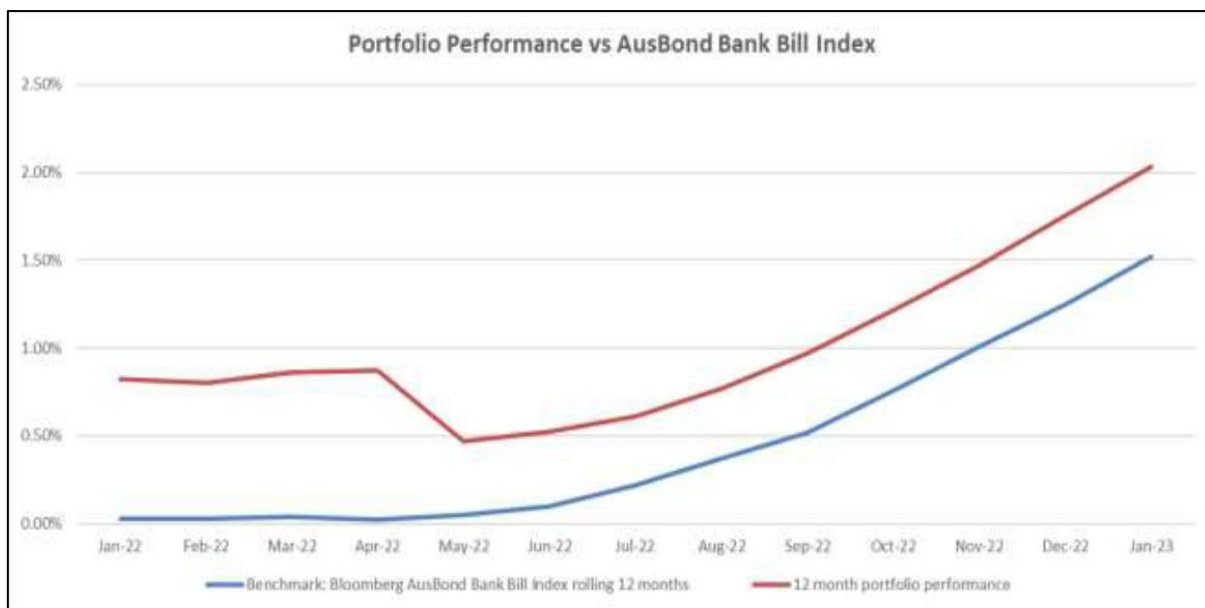
\* Excludes trading account balances

Council's Investment Advisors have stated this form of portfolio reporting conforms to global investment performance standards and that these standards say that periods below 12 months should not be annualised

The above table shows a comparison of Council's investment portfolio return to the benchmark. Council's Investment Advisor, Laminar Capital, has created an accumulation index for the portfolio which increases each month by the portfolio internal rate of return to enable meaningful comparison to the benchmark AusBond Bank Bill index, which is an accumulation index.

The Bloomberg AusBond Bank Bill Index is engineered to measure the Australian money market by representing a passively managed short term money market portfolio. This index is comprised of 13 synthetic instruments defined by rates interpolated from the RBA 24-hour cash rate, 1M BBSW, and 3M BBSW.

The portfolio achieved a return of 0.307% for the month of January which was 0.037% above the benchmark AusBond Bank Bill Index return of 0.27%. For the past 12 months the portfolio achieved a return of 2.032% which was 0.512% above the benchmark AusBond Bank Bill Index return of 1.52%.



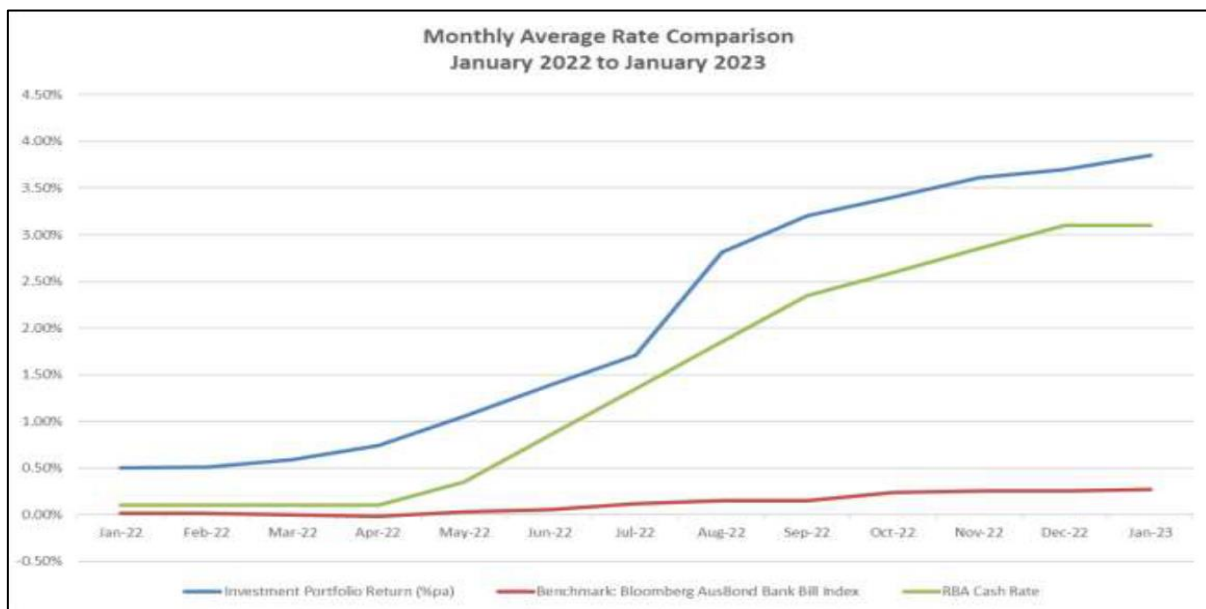
**b) Portfolio Interest Rate vs Benchmarks**

	Weighted Average Portfolio Interest Rate (%pa) *	Average Benchmark: AusBond Bank Bill Index	Average RBA Cash Rate
1 month	3.85%	0.27%	3.10%
3 Months	3.72%	0.26%	3.02%
6 Months	3.43%	0.22%	2.64%
FYTD	3.18%	0.20%	2.46%
12 Months	2.21%	0.13%	1.56%

\* Excludes trading account balances

The above table shows the weighted average interest rate of the portfolio as at month end. This is an average of all the interest rates that each term deposit is earning. It is the current earning rate of the portfolio and this information is useful as it shows how the earning rate is changing each month in line with changes in market interest rates. Each time a term deposit matures during the month it is being reinvested at current interest rates. To facilitate meaningful comparison, the weighted average interest rate of the portfolio is compared to the average AusBond Bank Bill Index and average RBA Cash Rate for the same period.

The weighted average interest rate of the portfolio is 3.85% compared to 3.70% for the prior month. For the past 12 months the weighted average interest rate of the portfolio was 2.21% compared to the average Ausbond Bank Bill movement of 0.13% and the average Reserve bank of Australia Cash Rate of 1.56%.

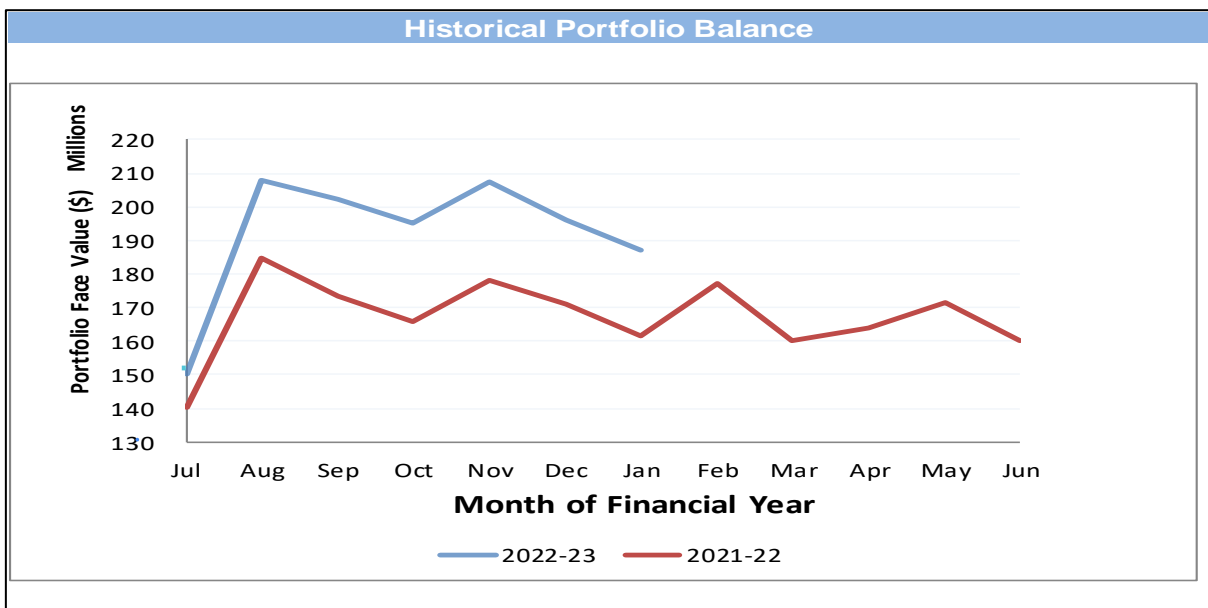


**Monthly Investment Income\* vs Budget**

	January 2023 \$	Year to Date \$
Investment Income	603,134	3,398,644
Adjustment for Fair Value	0	11,621
Total Investment Income	603,134	3,410,265
Budgeted Income	51,600	359,000

\*Includes all cash and investment holdings

Historical Portfolio Balance		
	2022-23	2021-22
<b>Jul</b>	150,084,380	140,264,007
<b>Aug</b>	207,972,249	184,686,438
<b>Sep</b>	202,385,068	173,325,287
<b>Oct</b>	195,360,642	166,006,688
<b>Nov</b>	207,563,253	178,085,861
<b>Dec</b>	196,306,324	170,911,655
<b>Jan</b>	187,257,340	161,545,259
<b>Feb</b>		176,973,362
<b>Mar</b>		160,133,548
<b>Apr</b>		163,852,294
<b>May</b>		171,636,374
<b>Jun</b>		160,160,643
<b>Average Portfolio Balance</b>	192,418,465	167,298,451





**Statement of Compliance**

Portfolio Performance vs Bank Bill Index over 12-month period.	✓	Council's investment performance did exceed benchmark.
Monthly Income vs Budget	✓	Council's income from investments did exceed monthly budget.

**Investment Policy Compliance**

Legislative Requirements	✓	Fully compliant
Portfolio Credit Rating Limit	✓	Fully compliant
Institutional Exposure Limits	✓	Fully compliant
Term to Maturity Limits	✓	Fully compliant

**Restricted cash, cash equivalents and investments**

The breakdown of restrictions is not available for the current month within the timeframe for the completion of the Monthly Investment. Accordingly, the total cash and investments and restrictions related thereto are presented for the previous month.

At the end of December 2022 total cash & investments were \$196,306,324 and were made up of the following reserve allocations.

Allocation of Funds	Amount (\$)	Percentage
Externally Restricted	50,787,315	25.87%
Internally Restricted	79,627,642	40.56%
Total Restricted	130,414,957	66.43%
Unrestricted	65,891,367	33.57%
Total	\$ 196,306,324	100.00%

## ECONOMIC NOTES

(Source: Primarily extracted from information supplied by Laminar Capital Pty Ltd)

Recession, feared previously to start as early as the current northern hemisphere winter starting in Europe and in the US not long after has been delayed by warm winter weather in Europe containing energy prices, optimism that central banks are near the end of their rate hiking cycle as inflation decelerates, and China's policy makers switching from tough restraints relating to covid and several big sectors of the economy most notably on property speculation to swift re-opening and support. High annual inflation rates have started to fall in the US and Europe adding to optimism that if recession still lies ahead, it is likely to be shallow and with a quick recovery as central banks find themselves in a position to start cutting official interest rates from later this year.

In the US, the pace of economic growth is slowing, but not much. The advance reading of Q4 2022 GDP showed 2.9% annualised growth from 3.2% in Q3 and with still good support from real consumer spending, 2.1% annualised growth in Q4 from 2.3% in Q3. Leading indicators of US economic activity released in January point to recession, but the signals are less pronounced than they were a month or two ago. In contrast, US retail sales have weakened late in 2022 falling 1.1% m-o-m in December after a 1.0% fall in November. Adding to the picture of mixed-strength US economic readings, non-farm payrolls continue to rise strongly, up 223,000 in December, causing the unemployment rate to fall from 3.6% in November to 3.5% in December, matching the lowest reading since 1969 and a marker of an exceptionally tight labour market.

In China, economic data released in January were all firmer than expected although still pointing to growth well below long term trend. Q4 2022 GDP was flat in the quarter with annual growth decelerating to 2.9% y-o-y from 3.9% in Q3. December readings showed fixed asset investment spending up 5.1% y-o-y (November 5.3%); industrial production up 1.3% y-o-y (November 2.2%); and retail sales down 1.8% y-o-y (November -5.9%). On the international trade front, December exports were down 9.9% y-o-y (November -8.7%) and imports were down 7.5% y-o-y (November -10.6%). December saw the beginnings of China reducing restrictions and introducing more growth friendly policies. The changes in policy direction, while potentially positive for the growth outlook have come at a price. China's covid infection rate has soared with the removal of lockdown restrictions.

A few months ago, Europe was tipped to slide into recession in the northern winter months amid a worsening energy supply and price crisis. A much warmer than usual winter plus better access to energy supplies derailed the energy crisis and has allowed the European economy to continue growing. Leading economic indicators, while still soft, have lifted a little. Europe's unemployment rate at 6.5% is the lowest this century and still marks a very tight labour market. Annual inflation appears to have peaked above 10% y-o-y and was down to 9.2% y-o-y in December. While the onset of recession has been delayed it is still likely to occur as both the European Central Bank and the Bank of England have become among the more strident talking about the need to contain inflation. The ECB and Bank of England both meet later this week and are expected to deliver 50bps rate hike taking the ECB deposit rate to 2.50% and the Bank of England Base Rate to 4.00%. These expected rate hikes will not be the last given widespread industrial disruption throughout Europe calling for higher wages.

In Australia, most economic indicators released in January, other than those related to housing activity, remained strong. Annual inflation is still rising and a little more than expected. The Q3 CPI rose by 1.9% q-o-q, lifting annual CPI inflation to 7.8% y-o-y from 7.3% in Q3. The underlying inflation measures removing some of the volatile items were also surprisingly high with the trimmed mean up 1.7% q-o-q lifting the annual rate to 6.9% y-o-y from 6.1%.

Another sign that inflation is yet to peak came with the monthly CPI reading for December showing annual inflation lifting to 8.4% y-o-y from 7.3% in November. High Q1 inflation readings in 2022 mean there is a strong likelihood that Australian annual inflation will start to moderate in Q1 2023, but probably not by much.

## 10.0 COMMUNITY AND BELONGING DIVISION REPORTS

<b>ITEM 10.1</b>	<b>COUNCIL REPRESENTATION TO THE QUARANTINE STATION COMMUNITY CONSULTATIVE COMMITTEE</b>
<b>REPORTING MANAGER</b>	<b>DIRECTOR COMMUNITY &amp; BELONGING</b>
<b>TRIM FILE REF</b>	<b>2023/007196</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

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### SUMMARY

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#### PURPOSE

To endorse a Councillor representative to the Quarantine Station Community Consultative Committee for a period of 4 years.

#### EXECUTIVE SUMMARY

The North Head Quarantine Station has been adaptively re-used as a cultural tourism facility since 2006.

The planning approval granted in 2003 associated with this adaptive re-use requires that a Quarantine Station Community Consultative Committee be established for the term of the approval.

The role of the Committee is to provide comment and recommendations in an advisory capacity to the National Parks and Wildlife Service (NPWS) and the lessee, on proposals or relevant matters including environmental reports, audits, the reviews of site wide plans, and compliance with the conditions of approval for the operation of the site.

The term of the appointment of Council's representative is a period of four years and is due for renewal in May 2023. At present Councillor Bingham is the appointed Council representative and the committee meets three to four times per year.

The Manly Ward Councillors have been consulted and recommend Councillor Bingham to continue to represent Council's interests. In accordance with the Northern Beaches Council Committee Framework adopted in 2022, Council must endorse the representative.

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#### RECOMMENDATION OF DIRECTOR COMMUNITY AND BELONGING

That Council endorse the nomination of Councillor Bingham as Council's representative on the Quarantine Station Community Consultative Committee for a period of 4 years.

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**REPORT**

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**BACKGROUND**

From 1828 to 1984 the Quarantine Station was in operation to isolate immigrants to Australia who were liable to be or suspected of, carrying an infectious disease. The site is listed as an item of National Heritage significance.

Since 1984 the site has been managed by the NPWS which is part of the Office of Environment and Heritage (OEH).

Since 2006, the site has been adapted for cultural tourism purposes and contains a visitor centre, restaurant, accommodation, conference centre and environment and cultural study centre.

A condition of the Planning Approval required the establishment of the Quarantine Station Community Consultative Committee which meets on a regular basis and includes a Councillor representative.

**TIMING**

The current Committee term will expire in May 2023. Council is required to endorse its representative prior to that time.

NPWS has written to Council requesting that the nomination be endorsed as soon as practicable to ensure allow for renewed or new members to be inducted and trained into the operations of the committee.

**LINK TO STRATEGY**

This report relates to the Community Strategic Plan Outcome of:

- Good governance - Goal 19 Our Council is transparent and trusted to make decisions that reflect the values of the community
- Protection of the environment - Goal 3 Our community is well-supported in protecting and enhancing the environment to ensure safe and sustainable use.

**FINANCIAL CONSIDERATIONS**

The recommendations of this report pose no financial impact on Council. NPWS provides secretariat and governance support for the Committee.

**SOCIAL CONSIDERATIONS**

The Quarantine Station Community Consultative Committee is an effective mechanism for Council to remain involved with the ongoing operations and future plans for the site.

**ENVIRONMENTAL CONSIDERATIONS**

The appointment of a Councillor to the committee has no direct environmental impact.

The committee will consider Environmental Reporting and Monitoring during its meetings.

**GOVERNANCE AND RISK CONSIDERATIONS**

Council's role is advisory to the NPWS on this committee, the terms of reference provide for an effective governance framework for decision making at the Quarantine Station site.

## 12.0 PLANNING AND PLACE DIVISION REPORTS

<b>ITEM 12.1</b>	<b>PLANNING PROPOSAL 10-12 BOONDAH ROAD, WARRIEWOOD PEX2022/0001</b>
<b>REPORTING MANAGER</b>	<b>EXECUTIVE MANAGER STRATEGIC &amp; PLACE PLANNING</b>
<b>TRIM FILE REF</b>	<b>2022/580108</b>
<b>ATTACHMENTS</b>	<b>1 <a href="#">⇒</a> Minutes of Northern Beaches Local Planning Panel Meeting 21 December 2022 (Included In Attachments Booklet)</b> <b>2 <a href="#">⇒</a> NSW State Emergency Service (SES) - Letter of Advice (Included In Attachments Booklet)</b> <b>3 <a href="#">⇒</a> Submissions - Summary of Issues Raised (Included In Attachments Booklet)</b>

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### SUMMARY

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#### PURPOSE

To seek Council's approval to reject a Planning Proposal for land at 10-12 Boondah Road, Warriewood, and not forward the Planning Proposal to the Minister for Planning.

#### EXECUTIVE SUMMARY

Henroth Pty Ltd submitted a Planning Proposal to amend *Pittwater Local Environmental Plan 2014* by rezoning land at 10-12 Boondah Road, Warriewood from RU2 Rural Landscape to R3 Medium Density Residential and C2 Environmental Conservation, along with other amendments, to enable residential development comprising 40 dwellings in a 3-storey townhouse typology and 4 affordable housing dwellings for a 10-year period in a manor home or 2-storey residential flat building typology.

The Planning Proposal has been assessed and found to be inconsistent with the strategic planning framework and fails to demonstrate sufficient strategic and site-specific merit, particularly in relation to flooding, water management, biodiversity impacts, affordable housing, and overall public benefit.

On 21 December 2022, the Northern Beaches Local Planning Panel (the Panel) considered the Planning Proposal and recommended that Council reject the Planning Proposal and not forward it on for a Gateway Determination. The Panel's full recommendation is contained in Attachment 1.

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#### RECOMMENDATION OF DIRECTOR PLANNING AND PLACE

That:

1. Council rejects the proponent's Planning Proposal and not forward it to the Minister for Planning for a Gateway determination for the following reasons:
  - A. The Planning Proposal has not demonstrated sufficient strategic merit or site-specific merit, and is inconsistent with the following elements of the strategic planning framework:
    - i. Greater Sydney Region Plan:  
Objective 27: Biodiversity is protected, urban bushland and remnant vegetation is enhanced.

Objective 36: People and places adapt to climate change and future shocks and stresses.

Objective 37: Exposure to natural and urban hazards is reduced.

ii. North District Plan:

Planning Priority N16: Protecting and enhancing bushland and biodiversity

Planning Priority N22: Adapting to the impacts of urban and natural hazards and climate change

iii. Towards 2040 Local Strategic Planning Statement for the Northern Beaches:

Priority 1: Healthy and valued coast and waterways

Priority 2: Protected and enhanced bushland and biodiversity

Priority 8: Adapted to the impacts of natural and urban hazards and climate change

Priority 15: Housing supply, choice, and affordability in the right locations

iv. Warriewood Valley Strategic Review Addendum Report adopted 17 November 2014 and amended 19 December 2017 by Northern Beaches Council and incorporated in Clause 6.1 Warriewood Valley Release Area of the *Pittwater Local Environmental Plan 2014*.

v. Local Planning Directions issued by the Minister for Planning:

Local Planning Direction 4.1: Flood Prone Land

Local Planning Direction 4.2 Coastal Management

Local Planning Direction 4.4: Planning for Bushfire Protection.

- B. The NSW State Emergency Service (SES) has raised significant concerns in relation to flood risk, and has indicated it does not support rezonings to enable development on the floodplain with risk management strategies that rely on early evacuation, private alarm systems, shelter in place, and transfer of residual risk in terms of emergency response to the SES, thereby increasing demands on SES resourcing and capabilities and potentially increasing risk to life, health and property for both existing and future communities.
- C. The Planning Proposal seeks to rezone land within the flood planning area and insufficient information has been provided to demonstrate that the proposed development will not:
- i. result in a net loss of flood storage in the floodplain;
  - ii. result in significant adverse impacts to other properties;
  - iii. result in an increased requirement for government spending on emergency management services, flood mitigation and emergency response measures;
  - iv. adversely affect the safe occupation and efficient evacuation of people; and
  - v. place people and property at unacceptable risk in the event of a major flood.
- D. The Planning Proposal is inconsistent with the objectives of Clause 5.21 Flood Planning of *Pittwater Local Environmental Plan 2014*.
- E. The Planning Proposal is likely to result in unacceptable impacts on biodiversity, particularly in respect of:
- i. failure to site and design development to avoid and minimise impacts to biodiversity;

- ii. impacts on the remnant Bangalay Sand Forest, an Endangered Ecological Community of significant biodiversity value, as well as impacts to threatened species habitats, reduction in local wildlife connectivity, and potential for altered flow regimes to impact groundwater dependent ecosystems;
  - iii. uncertainty with regards to Biodiversity Certification and, given that offset obligations are not available in the Northern Beaches, the likelihood of a net loss of local biodiversity;
  - iv. failure to exclude from development all the mapped Coastal Wetland;
  - v. failure to provide an adequate 15-metre-wide landscaped buffer, exclusive of the bushfire asset protection zone, to protect the adjacent wetlands; and
  - vi. inadequate groundwater investigation and water quality monitoring to demonstrate adequate management of impacts on the downstream environment and the wetland.
- F. The Planning Proposal does not comply with Council's Affordable Housing Policy as it only offers dwellings as affordable housing for a period of 10 years, and it fails to include a suitable mechanism to include the site in the Northern Beaches Affordable Housing Contributions Scheme.
- G. The proposed C2 zoning of land could trigger acquisition obligations for Council, noting that this matter may be able to be clarified if the Planning Proposal were to progress.
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**REPORT**

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**BACKGROUND****Previous Planning Proposals**

The site has been the subject of three previous Planning Proposals which have not proceeded, in summary:

**2013 Planning Proposal (PP0007/13)**

The 2013 Planning Proposal lodged with the former Pittwater Council, which included the subject site and land at 6 Jacksons Road and 3, 6 and 8 Boondah Road, was for a large mixed use development comprising retail, commercial and residential land uses. The former Pittwater Council resolved to not support this proposal on 17 March 2014. Upon a review sought by the applicant, the Joint Regional Planning Panel's decision on 17 February 2015 was to recommend against the Planning Proposal proceeding to Gateway Determination.

**2016 Planning Proposal (PP0005/16)**

The 2016 Planning Proposal, which included the subject site and land at 6 Jacksons Road, sought to enable development of a 4-storey residential flat building with a yield of up to 30 dwelling units, and a 2-storey bulky goods retail centre of up to 17,000sqm GFA. Northern Beaches Council resolved not to support this proposal on 28 March 2017. Upon review sought by the applicant, the Sydney North Planning Panel's unanimous decision on 31 May 2017 was that the Planning Proposal should not be submitted for Gateway Determination as it had not demonstrated strategic merit. Subsequent legal challenges by the applicant to the Land & Environment Court and the Court of Appeal were dismissed.

**2019 Planning Proposal (PEX2019/0003)**

The 2019 Planning Proposal, which included the subject site and land at 6 Jacksons Road, sought to enable development of five 4-storey residential flat buildings with a yield of up to 130 dwelling units, along with an offer to enter into a Planning Agreement to dedicate land at 6 Jacksons Road to Council and facilitate the provision of new and expanded sports fields. Council resolved not to support this proposal on 17 December 2019. Upon review sought by the applicant, the Sydney North Planning Panel's unanimous decision on 8 September 2020 was that the Planning Proposal should not be submitted for Gateway Determination as it had not demonstrated strategic merit.

**Pre-Lodgment Meeting**

A pre-lodgment meeting was held with Council officers on 22 July 2021 in relation to the current Planning Proposal, and formal notes were issued to the applicant on 27 August 2021. Amongst other things, the notes include specific requirements and considerations in relation to the strategic planning context, flooding, biodiversity, bush fire, riparian values, stormwater quality management, traffic and road design, parks and landscaping, dwelling density, affordable housing, development contributions, and the necessary components of justification for a Planning Proposal.

**Revisions to Warriewood Valley Development Contributions Plan**

At the time of the pre-lodgment meeting, the Warriewood Valley Development Contributions Plan Amendment 16, Revision 3 June 2018 (2018 Contributions Plan) was under review by the Council. Section 6.2.3 of 2018 Contributions Plan identified the strategy for provision of open space and recreation areas to meet the needs of the anticipated residential population in the release area. Land at 10-12 Boondah Road, Warriewood (the site of the current Planning Proposal), was identified as two of five properties in the Southern Buffer area for purchase for future active open space.

To date, the Council has only been successful in purchasing one of the five properties (3 Boondah Road, Warriewood) identified for future active open space.



The applicant was advised at the pre-lodgement meeting that provision of open space, particularly active open space such as sports fields, remains a key area in which community needs are not adequately met in Warriewood Valley, and that the Council was considering alternatives.

At its meeting on 28 June 2022, the Council resolved to adopt the Warriewood Valley Development Contributions Plan Amendment 16, Revision 4 2022 (2022 Contributions Plan) which came into effect on 1 July 2022. The 2022 Contributions Plan included revised calculations of open space still to be delivered, based on updated assumptions on anticipated development in the release area. Active open space still to be delivered has been revised down from 3.74ha in the 2018 Contributions Plan to 1.31ha in the 2022 Contributions Plan. Section 6.2.3 no longer identifies properties in the Southern Buffer area, including the site, for purchase for future active open space. The 2022 Contributions Plan recognises that opportunities for future land purchase for active open space are limited and focuses instead on satisfying remaining active open space demands through the embellishment of existing sports fields to increase available hours of use through upgrading turf surfaces, improving drainage and providing lighting.

### Site Description

The site is located at 10-12 Boondah Road, in Warriewood Valley (see Figure 1).



Figure 1 - Site Location - Aerial Photograph

The site adjoins Warriewood Wetlands to the west, land developed with a 3-storey residential flat building to the north (part of the larger residential complex developed by Meriton at the corner of Boondah Road and Macpherson Street), and a rural property to the south-east with a dwelling.

Warriewood Square shopping centre is further south of the site on Jacksons Road, and to the east on the opposite side of Boondah Road is bushland and a Sydney Water sewerage treatment plant.

The area referred to in planning documents as the Southern Buffer, derived its name from a 400m buffer distance to the sewerage treatment plant which was originally embargoed from the land release area until Sydney Water developed a plan for capping the plant to reduce odour impacts on the surrounding area.

Other land uses along Boondah Road include public sports fields and netball courts, a Council depot, and a community centre.

The site has a total area of 2.044ha, comprising lots described in the table below.

Address	Property Description	Area	Owner
10 Boondah Road	Lot 4 DP 26902	1.027	Henry Fraser Pty Ltd
12 Boondah Road	Lot 3 DP 26902	1.017	Cassius Investments Pty Ltd

The site is used in part for rural and storage purposes, and contains sheds, a small paddock and at least one dwelling. The topography of the site is generally flat and low-lying land, draining to the Warriewood Wetlands adjoining to the west and Narrabeen Creek to the south.

Although parts of the site are cleared, substantial vegetation exists on the site having significant biodiversity and wildlife connectivity value, including Threatened Ecological Communities (TEC) and Threatened Species and their habitats. In particular, the site contains two Endangered Ecological Communities (EEC), being Bangalay Sand Forest an EEC under the NSW Biodiversity Conservation Act 2016 (NSWBC Act) located on 12 Boondah Road, and Swamp Oak Floodplain Forest an EEC within NSWBC Act and Commonwealth Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act) located on 10 Boondah Road. Vegetation on the site merges with that of the adjacent Warriewood Wetlands and includes intact mature canopy.

The site is in the Flood Planning Area. Council's Flood Hazard Map identifies High, Medium and Low Risk Precinct areas within the site (see Figure 2).

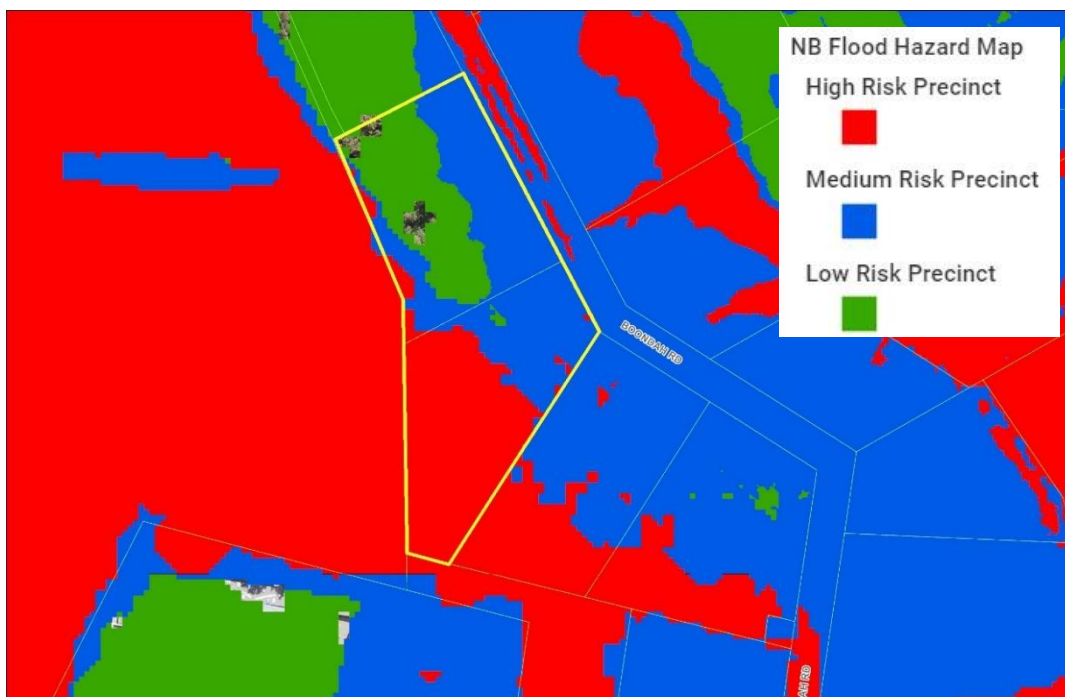


Figure 2 - Flood Hazard Map

The site includes Vegetation Category 1 and Vegetation Buffer on Council's Bushfire Prone Land Map (see Figure 3).

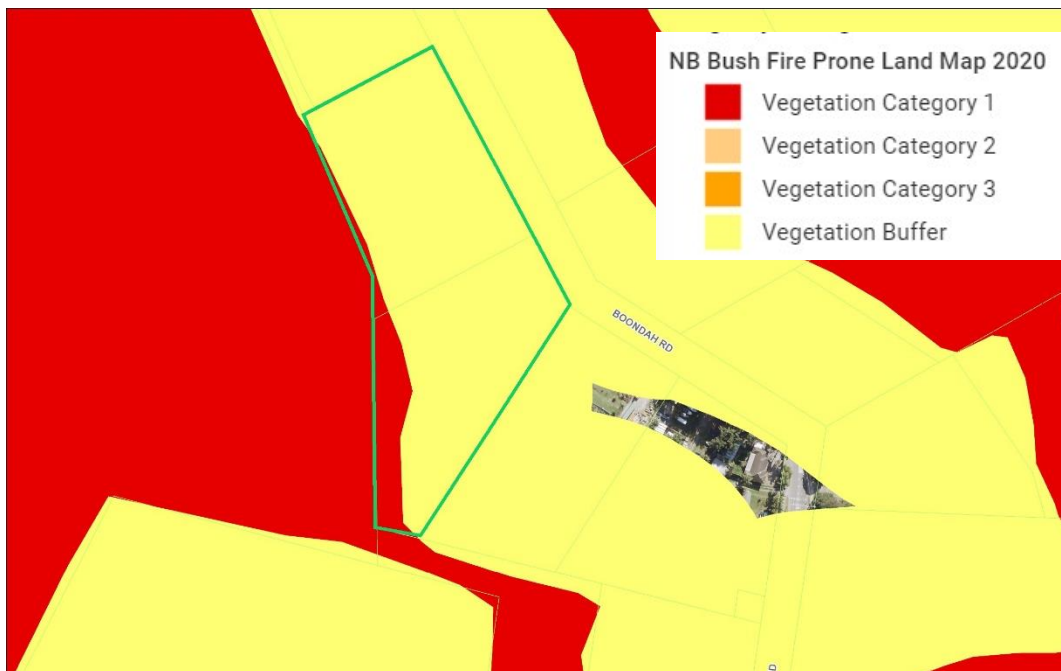


Figure 3 – Bush Fire Prone Land Map

## The Proposal

Henroth Pty Ltd lodged a Planning Proposal application via the NSW Government Planning Portal and it was assigned for review by Council on 22 July 2022. Various technical supporting documents were submitted with the application. On several occasions after lodgement, further information was submitted by the proponent, including amendments to the proposal. All additional information and amendments have been considered in the assessment contained in this report. The Planning Proposal and all associated documentation has been made accessible to the Council for its consideration.

The Planning Proposal seeks to amend Pittwater Local Environmental Plan 2014 (LEP) for land at 10-12 Boondah Road, Warriewood to permit future residential development of 44 dwellings, including 40 x three-storey multi-dwelling housing dwellings (townhouses) and four dwellings in a manor house form to be used as affordable housing for a period of 10 years.

A conceptual Site Plan shows six rows of townhouses with internal circulation roads and driveways across much of the site, along with a kids' playground, pedestrian pathway/fire trail, informal open space areas and a riparian corridor in the southern part of the site (see Figure 4). This Site Plan is a revision of an earlier version lodged with the application, in response to some issues raised at a meeting with Council officers. The revision increases, to 15m, the setback of the internal road from the site's boundary to Warriewood Wetland, with the end townhouses in each row re-oriented to achieve suitable road/driveway gradients. The development footprint remains largely unchanged.

The Site Plan indicates a 6m setback of the proposed townhouses from Boondah Road, and a 24m wide bushfire asset protection zone (APZ) between the proposed townhouses and the boundary to the Warriewood Wetland, with roads, paths and parking located within the 24m wide APZ area. The APZ is also intended to overlap a 15m wide ecological buffer to the adjacent Wetland.

Other changes to the Planning Proposal as lodged, include:

- a statement that the proposed C2 zone boundary would be adjusted to include all the mapped Coastal Wetland under State Environmental Planning Policy (Resilience & Hazards)
- an alternative building height limit using maximum RL to AHD (flood planning level plus 9.5m).

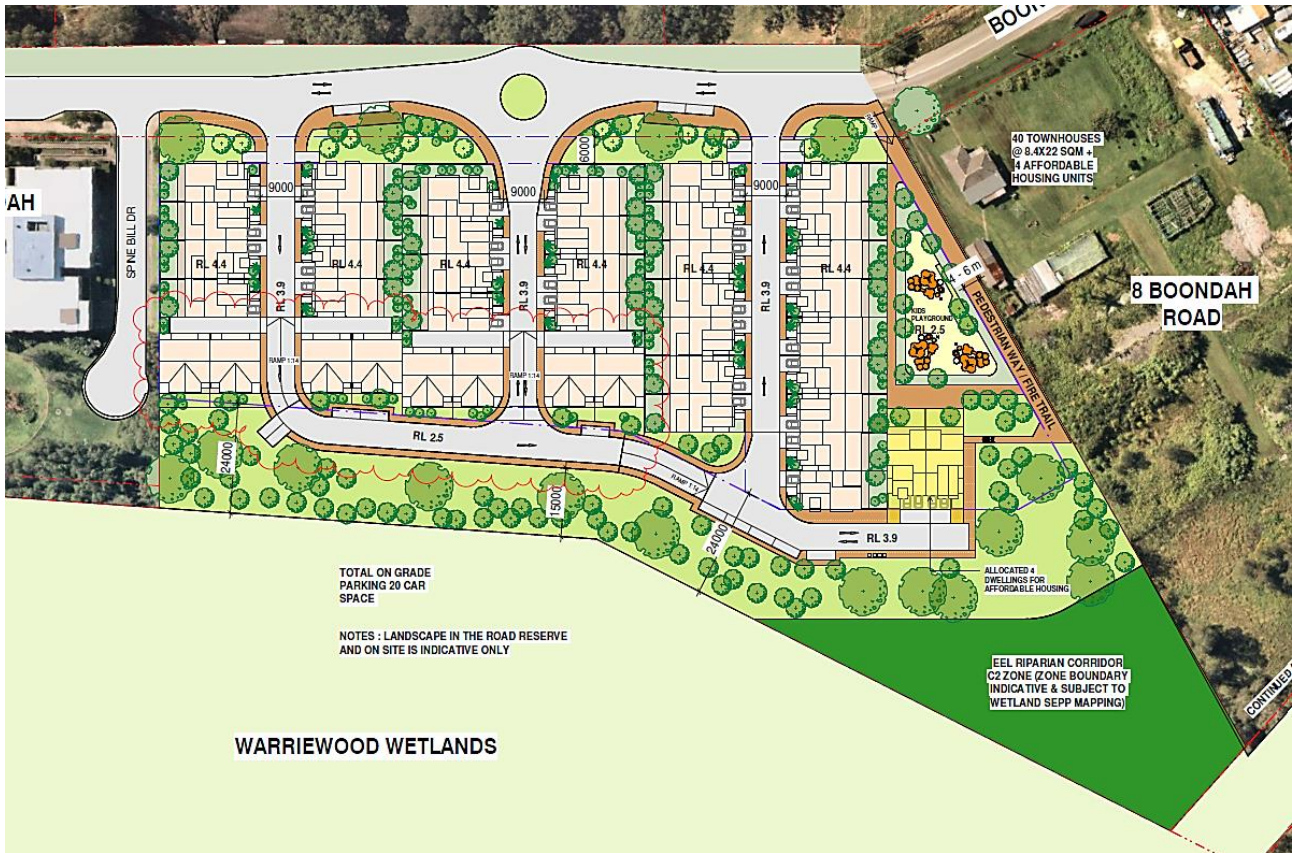


Figure 4 - Extract of Site Plan prepared by Buchan Group

The three-storey townhouse designs incorporate garage, living, dining and kitchen at ground level, and bedrooms and bathrooms on the two levels above (see Figures 5 and 6).

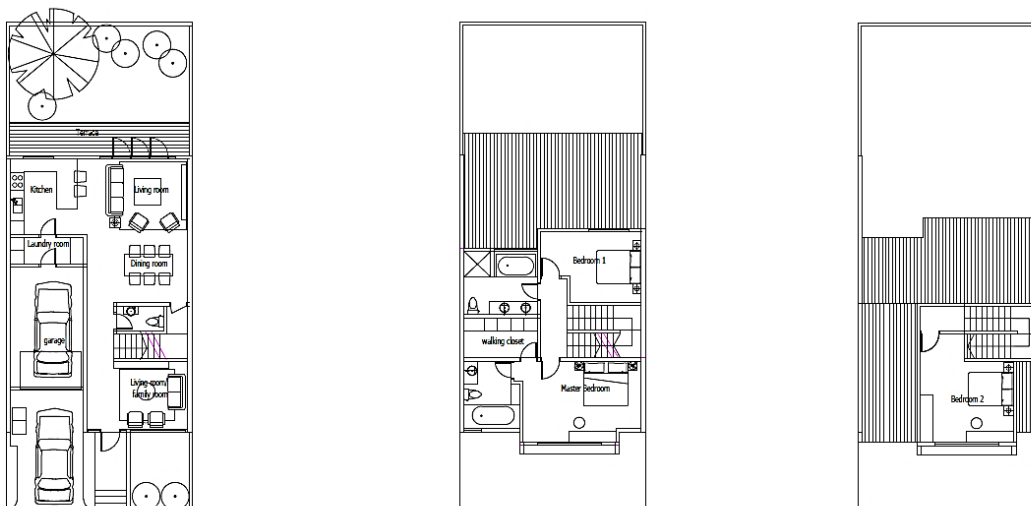


Figure 5 – Standard Housing Type 2 (Extract from Buchan Group report)

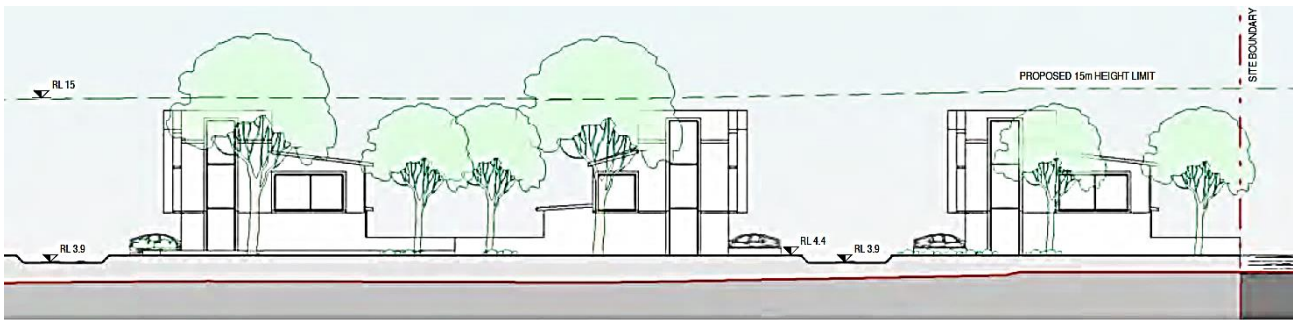


Figure 6 - Elevation to Boondah Rd, north end of site next to Meriton complex (extract Buchan Group report)

Most, if not all the proposed R3 Medium Density Residential zoned land (around 90% of total site area) will be subject to earthworks, mostly filling to raise the land to achieve levels required to meet flood planning criteria, including townhouse ground levels at RL4.4m, road and driveways at RL3.9m, and park and play areas at RL2.5m. Boondah Road along the site's frontage is also to be raised to RL3.9m - which is 1% AEP (previously referred to as 1 in 100-year flood level) plus an allowance for climate change. The earthworks are likely to necessitate removal of most if not all the existing vegetation in the proposed R3 zoned area. No earthworks are proposed for the riparian corridor proposed to be zoned C2 Environmental Conservation.

The applicant has not made an offer to enter into a Planning Agreement. The applicant has stated the intention is for the C2 zoned land to remain in private ownership as part of a Community Title.

### Assessment of Planning Proposal

The following assessment is set out in accordance with the relevant NSW Government Local Environmental Plan Making Guideline (Guideline).

#### Part 1 – Objectives or Intended Outcomes

The stated objectives and intended outcomes of the Planning Proposal are to:

- continue residential development adjoining existing residential development within the Warriewood Valley release area
- provide residential accommodation opportunities responding to identified demand
- optimise the utilisation of existing infrastructure
- preclude from urban development those areas identified through the studies undertaken that are not suited for urban development
- to accommodate approximately 44 dwellings equating to a yield of approximately 22 dwellings per hectare.

The stated objectives rely on the proponent's stated premise that the Planning Proposal responds to the outcomes of the previous Rezoning Review for the 2019 Planning Proposal. The proponent suggests that the SNPP found that the proposed development potentially had site specific merit but not strategic merit, and that changes to the 2018 Warriewood Valley Development Contributions Plan (Contributions Plan) whereby Council is no longer targeting the land for acquisition for open space resolve a key reason for the 2019 Planning Proposal failing to satisfy strategic merit.

#### Response

This premise is not accepted. Although the quantum of open space still to be delivered in the Release Area has been revised down and the site is no longer identified in the Contributions Plan for purchase for future active open space, this does not mean that the site by default becomes suitable in a strategic planning sense for urban or residential development.

The site's earlier designation for active open space was not based solely on meeting the needs of the anticipated population, but also on the findings of a suite of technical studies that informed the planning strategy for Warriewood Valley Release Area. These studies included land capability mapping based on identified environmental constraints to development such as flooding, bush fire and biodiversity. Strategic Merit is discussed further in Part 3 below.

The current zoning remains strategically appropriate particularly having regard for the constraints of the site and the commentary from the SES.

## **Part 2 – Explanation of Provisions**

The applicant's proposed LEP amendments seek to:

- rezone the site from RU2 Rural Landscape to R3 Medium Density Residential and C2 Environmental Conservation (see Figures 7 and 8)
- increase the maximum building height from 8.5m to 15m over the proposed R3 zoned land, or an alternative approach that imposes an RL to AHD limit based on flood planning level plus 9.5m
- remove the minimum subdivision lot size
- amend the Urban Release Area Map and clause 6.1(3) to apply a dwelling yield range of 40-45 dwellings.

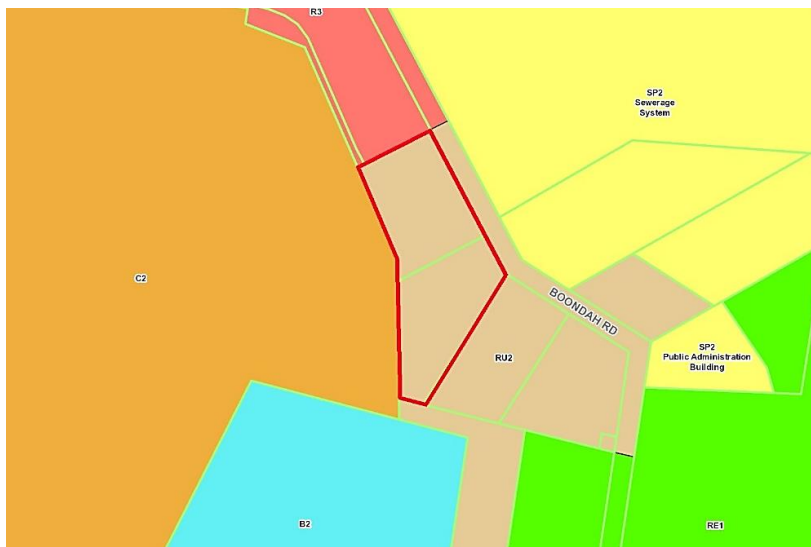


Figure 7 – Existing Zoning

E2	Environment Conservation
E3	Environmental Management
E4	Environmental Living
IN2	Light Industrial
IN4	Working Waterfront
R2	Low Density Residential
R3	Medium Density Residential
R5	Large Lot Residential
RE1	Public Recreation
RE2	Private Recreation
RU2	Rural Landscape
SP1	Special Activities
SP2	Infrastructure

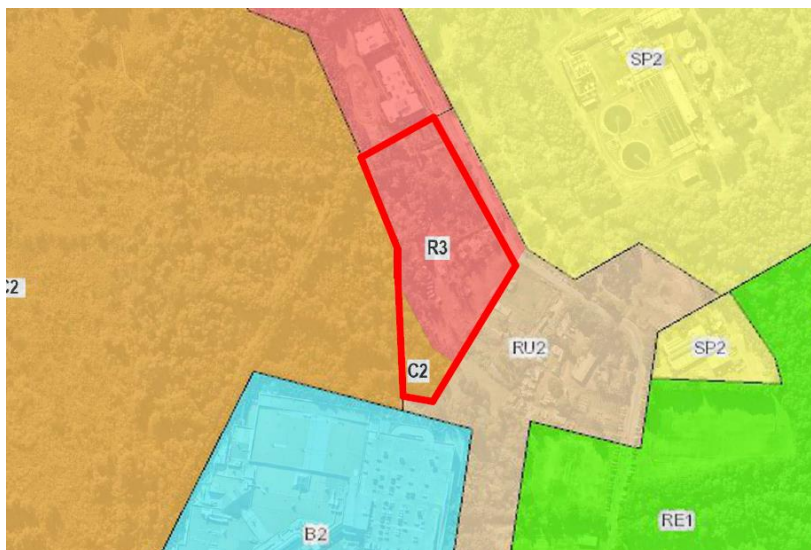


Figure 8 – Proposed Zoning

**Response – Proposed Zoning**

The proposed R3 zoning may be a suitable zoning to accommodate residential development at the density that is proposed. However, the extent of development proposed is not appropriate having regard to flooding, biodiversity, and water quality. These issues are discussed further in Part 3. As discussed above, the current zoning remains strategically appropriate particularly having regard for the constraints of the site and the commentary from the SES.

The proposed C2 Environmental zoning is not acceptable, for the following reasons:

- It has not been demonstrated that the extent of the proposed C2 zoning adequately aligns with the biodiversity values of the land and the conservation requirements to protect these values.
- While the applicant has stated that the proposed C2 zoning boundary will encompass all the mapped Coastal Wetland under State Environmental Planning Policy (Resilience and Hazards) 2021, the Site Plan has not been revised to reflect this. Although conceptual in nature, the Site Plan and plans included in a supporting memo by Calibre dated 14 October 2022 show roads, earthworks, asset protection zones, and indicative locations of bioretention basins, stormwater filters and discharge points within areas of mapped Coastal Wetland.

- While the applicant has stated that the proposed C2 zoned land is intended to remain in private ownership under a Community Title scheme, without confirmation to indicate otherwise, it is possible that the C2 zoning could trigger an obligation for Council to acquire the land under the owner-initiated hardship provisions of the Land Acquisition (Just Terms Compensation) Act 1991, if the C2 zoning is deemed to be reserving the land for use for a public purpose. Despite enquiries made by Council planners, the Department of Planning and Environment (DPE) was unable to clarify the operation of the relevant legislation in this instance due to legal complexity. While this remains uncertain, it represents a financial risk for Council.
- While the proposed C2 zoning may offer better protection of biodiversity values than the current RU2 Rural Landscape zoning, there is uncertainty over responsibility for implementing the proposed conservation measures, and the prospects of Biodiversity Certification.

If the Planning Proposal were to proceed, the above issues could be investigated further, and potentially resolved through suitable detailed information and amendments to the proposal. Amongst other things, to allay concerns about an acquisition obligation, Council would need confirmation from the DPE that it would not require the proposed C2 zoned land to be included on the Land Reservation Acquisition Map in Pittwater LEP and assurance from a legal perspective that the proposed C2 zoned land would not be subject to owner-initiated acquisition provisions of the Land Acquisition (Just Terms Compensation) Act 1991.

If the Planning Proposal were to proceed, the precise boundaries of the new zones would need to be determined through resolution of the relationship of the proposed C2 zone boundary to mapped Coastal Wetland under SEPP (R&H) and ground-truthing of vegetation and biodiversity mapping.

#### Response – Building Height

In response to concerns about the proposed 15m building height limit, the applicant suggested an alternative building height limit using a maximum RL based on flood planning level plus 9.5m.

No ground survey information has been submitted to indicate the maximum level of fill necessary to achieve flood planning levels. The onus is on the applicant to satisfy Council that future buildings would not be excessive in scale or out of character with the area. Nevertheless, while precise LEP provisions or maps have not been provided, the applicant has indicated the intended outcome is for future buildings be limited to two-storeys plus attic with a maximum height above filled ground levels of 9.5m. This is sufficient explanation to assist in legal drafting of a suitable LEP amendment if the Planning Proposal were to proceed. As such, building height is no longer considered to be a reason to reject the proposal and has been deleted from the recommendation since reporting to the Local Planning Panel.

#### Response – Dwelling Yield Range

Part 6.1 of the LEP implements the adopted planning strategy for Warriewood Valley Release Area contained in the Warriewood Valley Strategic Review (WVSR) adopted by former Pittwater Council and endorsed by NSW Director of Planning in 2013 and the Warriewood Valley Strategic Review Addendum (WVSR Addendum) adopted in 2014 and amended in 2017 (WVSR Addendum).

Clause 6.1(3) of the LEP specifies dwelling yield ranges to control the density of residential development. The dwelling yield ranges are based on densities adopted through the WVSR and WVSR Addendum for individual residential sectors, with density calculated on the 'developable area' – that is, the total site area excluding land identified as environmentally sensitive, creek line corridor and/or having no potential for development due to a prevailing condition/hazard.

32 dwellings per developable hectare is the maximum density that has been planned and applied generally across most of the undeveloped release land in Warriewood Valley through the WVSR and WVSR Addendum.



The Planning Proposal seeks a dwelling yield range of 40-45 dwellings which equates to a density of approximately 22 dwellings/ha. However, this calculation is not appropriate as not all of the site can reasonably be considered 'developable' given significant environmental constraints associated with flooding and riparian and biodiversity values, especially in the southern half of the site.

The Water Management Report by Calibre nominates at page 37 that the 'developable land' is a minimum of 1.32ha, defined as the land within the low and medium flood hazard zones. 1.32ha at a density of 32 dwellings per hectare will permit 42 dwellings.

On this basis, the proposed dwelling yield range is generally consistent with the density limit of 32 dwellings/ha applied by the planning strategy for Warriewood Valley.

### Affordable Housing

Council's stated policy is that it is committed to a 10% affordable rental housing target for all planning proposals for urban renewal or greenfield development, and the Contributions Scheme and related LEP provisions are the mechanism by which affordable housing is to be secured.

The proposed LEP amendments do not include any amendments to give effect to an affordable housing contribution in accordance with Council's Affordable Housing Policy and its Affordable Housing Contributions Scheme. Such amendments would include a new LEP clause and map, and a new section in the Contributions Scheme applying to the subject land, to specify the proportion of total residential gross floor area to be dedicated as affordable housing or provided as a monetary contribution in lieu of dedication as a condition of a future development consent.

The Planning Proposal includes an offer to provide four dwellings as affordable housing for a period of 10 years, managed during that time by a registered community housing provider. Affordable housing for a time limited period is not acceptable, nor is it in accordance with Council's Policy. Dwellings secured for affordable housing are required to be in Council ownership in perpetuity.

## **Part 3 – Justification**

### **Strategic Merit**

#### Section A – Need for the Planning Proposal

*Q1. Is the planning proposal a result of an endorsed LSPS, strategic study or report?*

The applicant's report states the site has been part of the Warriewood Valley Release Area since its inception and is identified in the WVSR and WVSR Addendum as land having development capability ranging from Least to More.

The case for need put forward by the applicant is based on housing need, in particular that the proposal responds to a shortfall of 275 dwellings identified in Council's Local Housing Strategy (LHS), a shortfall of 251 dwellings from the original forecasts for the Release Area, and the exacerbation of any shortfall resulting from the abandonment of the Ingleside Place Strategy.

The proposal also relies on the provision of four dwellings for a period of 10 years as affordable housing which is stated to maximum opportunities for affordable housing dwellings.

### Response

The applicant's justification with regards to need is not supported.

The LHS forecasts housing demand to the year 2036 and identifies a deficit in capacity under the current planning controls of 275 dwellings across the entire Northern Beaches local government area. The LHS estimates of capacity to meet housing demand factored in 1000 new dwellings in Ingleside. In response to the State Government's decision last year to not proceed with Ingleside Place Strategy, Council's strategic planning team is actively investigating alternative locations.

The LHS builds on the strategy for housing identified in Council's Towards 2040 Local Strategic Planning Statement (LSPS) of focusing new housing in and around centres with good transport. Centre Investigation Areas are the cornerstone of Council's adopted approach to meeting housing targets and the LHS identifies Brookvale, Dee Why, Mona Vale, Manly Vale and Narrabeen as priorities for urban renewal in the short-medium term. Medium density residential development is to be concentrated in strategic and selected town centres on the current and future B-line routes, and these centres will be the subject of detailed planning to identify opportunities for renewal and respond to the unique circumstances and character of each centre. As discussed further under Q.4 below, Warriewood was not identified as a viable option for a Centre Investigation Area in the LHS.

Planning for Brookvale to deliver on housing targets is well advanced. Brookvale strategic centre has potential to meet the 275 dwellings deficit identified in the LHS and a major portion of the 1000 dwellings no longer being planned in Ingleside, in a location having significant advantages in terms of existing infrastructure, proximity to employment and services, and an efficient, transit-supportive urban structure that can promote less reliance on private vehicles and less impact on traffic congestion. Forward planning for growth and development in Brookvale began in 2016 and a revised Draft Structure Plan was endorsed by Council in November 2022 and is undergoing a final phase of public exhibition until 28 February 2023. The plan envisages an additional 1300 apartment-style dwellings in and around Brookvale centre, which will add to housing diversity.

Given the progress made to date and the ability for Council to meet its housing targets through a methodical, strategic, principles-based approach to increasing housing capacity in and around its most accessible centres, there is no need for the subject Planning Proposal to rezone land in Warriewood, especially given the site-specific constraints and potential environmental, social, and economic impacts which are discussed in the section on Site-Specific Merit later in this report.

*Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The applicant's report suggests the site is a logical extension of existing urban zoned lands and the Planning Proposal is a logical infill development opportunity that does not face the infrastructure delivery constraints that pose challenges to the Ingleside and Frenchs Forest release areas.

#### Response

As discussed under Q1. above, Council is on track to meet the housing targets identified in its' LHS and detailed planning is underway for Centre Investigation Areas, including Brookvale. Phase 1 of the Frenchs Forest Precinct is being implemented through new planning controls that came into effect on 1 June 2022 and is scaled to ensure growth and development is in line with infrastructure.

The subject site faces other challenges that Frenchs Forest and Brookvale are not so affected by, for example flooding, bushfire and biodiversity. There are better ways to achieve the objectives or intended outcomes, as discussed further below.

#### Section B – Relationship to strategic planning framework

*Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy?*

The applicant's report states that the Planning Proposal is consistent with Greater Sydney Region Plan and North District Plan.

#### Response

The proposed development involves significant issues associated with flood risk and the SES has raised significant concerns. Shelter in place is not an acceptable strategy to manage flood risk for future development of housing on land not currently zoned for housing. The proposed development will result in unacceptable impacts on biodiversity, fails to provide an adequate buffer to adjacent

wetland, and insufficient information has been submitted in relation to water quality management and impacts on groundwater dependent ecosystems. For these reasons, the Planning Proposal is inconsistent with:

#### Greater Sydney Region Plan

- Objective 27: Biodiversity is protected, urban bushland and remnant vegetation is enhanced
- Objective 36: People and places adapt to climate change and future shocks and stresses
- Objective 37: Exposure to natural and urban hazards is reduced.

#### North District Plan:

- Planning Priority N16: Protecting and enhancing bushland and biodiversity
- Planning Priority N22: Adapting to the impacts of urban and natural hazards and climate change

*Q4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?*

The applicant's report states that the Planning Proposal is consistent with the endorsed LSPS and the endorsed LHS.

#### Response - Towards 2040 Local Strategic Planning Statement

The proposed development involves significant issues associated with flood risk and the SES has raised significant concerns. Shelter in place is not an acceptable strategy to manage flood risk for future development of housing on land not currently zoned for housing. The proposed development will result in unacceptable impacts on biodiversity, fails to provide an adequate buffer to adjacent wetland, and insufficient information has been submitted in relation to water quality management and impacts on groundwater dependent ecosystems.

With good progress made to date and the ability for Council to meet its housing targets through a methodical, principles-based approach to increasing housing capacity and diversity in and around its most accessible centres, there is no need to rezone the subject site to allow housing, especially given the flooding constraints and potential environmental impacts.

The proposal fails to incorporate appropriate provision for contributing affordable housing dwellings in perpetuity in accordance with the relevant policy and scheme.

The proposed C2 zoned land presents uncertainty for Council with regards to potential acquisition triggers and responsibility for ongoing implementation of conservation measures.

For these reasons, the Planning Proposal is inconsistent with the following Priorities of the LSPS:

- Priority 1: Healthy and valued coast and waterways
- Priority 2: Protected and enhanced bushland and biodiversity
- Priority 8: Adapted to the impacts of natural and urban hazards and climate change
- Priority 15: Housing supply, choice and affordability in the right locations
- Priority 16: Access to quality social and affordable housing

It is furthermore inconsistent with the following Housing Principle adopted in the LSPS:

- Limit development where there are unacceptable risks from natural and urban hazards, or impact on tree canopy.

#### Response – Northern Beaches Local Housing Strategy

Council's ongoing forward planning for centres will address the shortfall of 275 dwellings identified in the LHS and find alternatives for the 1000 dwellings previously envisaged for Ingleside.

The Centre Investigation Areas earmarked in the LHS for investigation for renewal will be the key locations for delivering new housing with detailed planning for these centres looking to provide a variety of housing types including medium to higher density housing in highly accessible locations.

The second approach outlined in the LHS, Low-rise Housing Diversity Areas, identifies Warriewood as one of several local centres potentially suited to low to medium density typologies within 400m of centres. This approach is explicitly subject to environmental and other constraints, which means the site's flooding, bushfire and biodiversity constraints would need to be properly considered and addressed.

Warriewood's disjointed layout, with the shopping centre being more than 350m from the B-line stop, does not lend itself to a decision on balance where the benefits of providing more housing would outweigh the disbenefits associated with flood risk and impacts on biodiversity.

These issues with the location of the B-line stop, the layout of the wider centre, and the local environmental and flooding constraints, are the reason Warriewood did not present as a viable option for a Centre Investigation Area in the LHS.

As the Planning Proposal does not adequately address the site's environmental constraints, it is inconsistent with the LHS.

#### Warriewood Valley Strategic Review and Warriewood Valley Strategic Review Addendum

Assessment of Strategic Merit should also consider the adopted planning strategy for Warriewood Valley Release Area contained in the Warriewood Valley Strategic Review Report adopted by the former Pittwater Council and endorsed by the NSW Director of Planning in 2013 (WVSR) and the Warriewood Valley Strategic Review Addendum Report adopted in 2014 and amended in 2017 (WVSR Addendum). Clause 6.1(3) of the LEP, which implements the planning strategy for Warriewood Valley Release Area, includes the objectives:

- (a) *to permit development in the Warriewood Valley Release Area in accordance with the Warriewood Valley Strategic Review Report and the Warriewood Valley Strategic Review Addendum Report, and*
- (b) *to ensure that development in that area does not adversely impact on waterways and creek line corridors, protects existing native riparian vegetation and rehabilitates the creek line corridors.*

The catalyst for WVSR was an approval in 2011 by the Planning Assessment Commission (PAC), under its now repealed Part 3A powers, of the Meriton development at the corner of Macpherson Street and Boondah Road, comprising multiple 3-4 storey residential flat buildings with a total of approximately 450 dwellings. Part of this development adjoins the subject site's northern boundary. The PAC called for a comprehensive strategic study for all undeveloped land in Warriewood Valley, including for the first time the Southern Buffer area, which includes the subject site.

The WVSR investigated the remaining undeveloped lands, first utilising composite land capability mapping of a range of environmental, economic, and social characteristics to classify land into categories of capability for development ranging from Least to Most developable. It then drew on a major hydrology study to inform developable land classifications, and used independent urban design, strategic transport, and economic feasibility studies to determine the recommended density and dwelling yield ranges for specific residential sectors. These were incorporated into the controls in clause 6.1 of the LEP, and such provisions required endorsement by the State Government.

The WVSR explored development opportunities for the Southern Buffer, including the potential for a mixed-use centre. It recognised that under existing conditions, flood depths exceed 1m across most of the Southern Buffer in a 1% AEP event and that a significant amount of compensatory cut

and fill would be required to create two developable areas; one being 0.87ha at the northern end of the Southern Buffer (i.e., part of 10 Boondah Road), the other at the corner of Pittwater and Jacksons Rds. It also recognised the high biodiversity values of some of the Southern Buffer land. Although a draft concept plan and design principles were publicly exhibited, due to community opposition and a reluctance amongst landowners to collaborate, the concept did not progress any further. No future land use or dwelling yield was recommended for the Southern Buffer.

The WVSR Addendum was prepared to identify a forward path for remaining sectors which were not considered or not identified with a forward path by the WVSR. The WVSR Addendum utilised updated information on bushfire, flooding, biodiversity, and slope to produce new land capability mapping. It re-evaluated sector boundaries and recommended dwelling densities with dwelling yield ranges that were once again incorporated into subsequent amendments to LEP clause 6.1.

The WVSR Addendum was also informed by the Pittwater Open Space and Recreation Strategy in 2014, which highlighted a significant undersupply of active recreation areas in the Pittwater LGA and the importance of Release Areas providing places and facilities for recreation to meet the needs of their incoming populations. The estimated remaining open space to be provided in Warriewood Valley Release Area was identified as 6.32ha, comprising 1.69ha of linear open space and 4.63ha of active open space.

For the Southern Buffer, based on updated flood and bushfire information, biodiversity values, and the findings of the Open Space and Recreation Strategy, no residential potential was identified. Most of the Southern Buffer, including the subject site was given a land use designation of 'Active Recreation'. This outcome is reflected in the absence of any Southern Buffer land from the table in Clause 6.1(3) of the LEP which specifies the number of dwellings to be erected on specified land areas in the Release Area. It was also later reflected in the Warriewood Valley Development Contributions Plan which specifically identified 5 properties along Boondah Road, including the subject site, for purchase for active open space.

Following years of unsuccessful attempts to purchase this land, revisions to the Contributions Plan which came into effect on 1 July 2022 reflect a change in strategy to focus on embellishment of existing sports fields instead of purchasing of additional land to meet the needs of the population for active open space. While the subject site is no longer identified for purchase for active open space, this does not mean that site by default becomes suitable in a strategic planning sense for residential development. The planning strategy for Warriewood Valley set out in the WVSR and the WVSR Addendum was informed by land capability mapping and a suite of technical studies that recognised constraints to development such as flooding, bush fire and biodiversity. The site has never been allocated an endorsed forward path for residential development because of these characteristics. Any Planning Proposal to enable residential development would need to demonstrate that these characteristics can be properly managed through a design and impact assessment process that achieves a site that is suitable for the intended uses, without significant adverse economic, social, or environmental impact. This has not been demonstrated in this case.

*Q5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?*

See earlier comments under Question 3.

*Q6. Is the planning proposal consistent with applicable SEPPs?*

The applicant's report states that the Planning Proposal does not conflict with any of the SEPPs.

Response - SEPP (Resilience and Hazards)

In relation to Chapter 2 Coastal Management of the SEPP (R&H), the site is mapped as Coastal Wetlands and Proximity Area for Coastal Wetlands (see Figure 9).

In accordance with Part 2.2 of the SEPP (R&H), Council must not grant consent for development unless it is satisfied that:

- for Coastal Wetlands, “sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest”; and
- for Proximity Areas, “the proposed development will not significantly impact on -
  - (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
  - (b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland...”

The Planning Proposal has not demonstrated that a future development application will be able to satisfy Council in accordance with these requirements.



Figure 9 Coastal Wetlands and Littoral Rainforest Area Map

Part of the mapped Coastal Wetland falls within the proposed R3 zoned area that is intended to be developed, including areas subject to proposed earthworks, roads, parking, bioretention basins, stormwater filters and outlets, and management as a bushfire APZ. Wetland vegetation will necessarily be removed and altered stormwater flow regimes could have detrimental impacts on groundwater dependent ecosystems both within the site and the adjacent Warriewood Wetlands.

All of the site that is mapped Proximity Area will be subject to major earthworks to raise the land above flood planning levels which will significantly alter flows to and from the site. The applicant has not submitted information regarding the potential impact of the altered flow regimes on the Wetland or undertaken adequate groundwater investigation and water quality monitoring.

The Planning Proposal fails to provide a 15m wide extensively landscaped buffer to protect the adjacent wetlands in accordance with clause 6.6 of the Pittwater DCP (DCP) due to management requirements of the overlapping bushfire Asset Protection Zone (APZ). In order to function as an effective ecological buffer to the wetland, the DCP requires a 15m buffer consisting of landscaped mounds with mass planting of native trees and shrubs. The buffer should be exclusive of any APZ, and not overlap with it as is proposed. This is consistent with conditions of approval set by the PAC for the adjacent Meriton development, requiring a 25m wide APZ outside of a 10m wide Vegetated Wetland Buffer Zone and no excavation works in the Wetland Buffer Zone.

The Planning Proposal does not take adequate measures to protect or enhance the hydrological and ecological integrity of the mapped Coastal Wetland or to minimise impact on the quantity and quality of surface and ground water flows to and from the adjacent Coastal Wetland.

Furthermore, any development within the mapped Coastal Wetland area would be Designated Development requiring an Environmental Impact Statement under the SEPP (R&H) provisions.

Having regard for deficiencies associated with the proponent's Strategic Bushfire Study, as discussed further under Q.7 below, concern exists in relation to the ability for a future development application to satisfy section 4.14 of the Environmental Planning and Assessment Act 1979.

*Q7. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?*

The applicant's report states the Planning Proposal would be consistent with all relevant Directions.

#### Response - Local Planning Direction 4.1 Flooding

The Planning Proposal is not consistent with clause 4.1(2) of Direction 4.1 as it seeks to rezone land within the flood planning area from a Rural zone to a Residential zone.

The Planning Proposal is not consistent with clause 4.1(3) of Direction 4.1 as it will:

- permit development that will result in significant flood impacts to other properties,
- permit a significant increase in the development and/or dwelling density of that land; and
- is likely to result in a significantly increased requirement for government spending on emergency management services, flood mitigation and emergency response measures.

Direction 4.1 requires planning proposals to give effect to and be consistent with the principles of the Floodplain Development Manual 2005 (the Manual), any flood study prepared by Council in accordance with the Manual, and the Considering Flooding in Land Use Planning Guidelines which introduced Standard Instrument LEP clauses related to Flooding.

The Manual promotes a merit approach to development decisions in the floodplain, taking into account social, economic, and ecological factors as well as flooding considerations. Its primary objective is to reduce the impact of private and public losses resulting from floods, and it looks to containing the potential for flood losses through application of planning and development controls and enabling councils to be responsible for determining the appropriate planning and development controls to manage future flood risk.

The Pittwater Development Control Plan (DCP) includes flood-related controls in section B3.11 Flood Prone Land. For land affected by flooding in High and Medium Risk Flood Precincts, the controls require that development must demonstrate, amongst other things, for all flood events up to the 1% AEP event: no adverse impacts on flood levels or velocities caused by alterations to the flood conveyance, no adverse impacts on surrounding properties, and no net loss of flood storage.

The Planning Proposal involves filling of most of the proposed R3 zoned land and the amount of fill is substantial to achieve flood planning levels for the townhouses of RL4.4m, well above existing ground levels of around 2-4m AHD. Without compensatory cut, this will result in a sizeable net loss of flood storage from the site which will need to be absorbed by other properties in the floodplain. The proponent has not demonstrated no net loss of flood storage. No volumetric calculations indicating the balance of cut and fill have been provided. The proponent has instead focused on modelling to demonstrate no adverse impacts on surrounding properties and compliance with specific DCP controls for Warriewood Valley Release Area under C6.1.

Development that results in a net loss of flood storage is contrary to specific controls established by Council to manage flood risk.

Cumulative loss of floodplain storage is an important consideration, particularly where land is not currently zoned for the type and intensity of development proposed. Any net loss of flood storage from the site, as a result of filling to achieve adequate levels for new houses and roads, requires other properties to absorb the storage lost. Flood levels and flows can increase on other properties and the combined, cumulative effects may be excessive if other sites in the catchment are similarly rezoned and filled for housing following any precedent set by this Planning Proposal.

Risks to life and property are critical considerations under Direction 4.1.

The results of Calibre's flood modelling of the Probable Maximum Flood (PMF) event indicate that at 195 minutes into a PMF storm event, internal driveways and Boondah Road become unsafe for small vehicles, and at 210 minutes into a PMF storm event water levels on the site have risen to 4.54m and will enter the ground floors of the townhouses, and anyone who has not evacuated will need to shelter in place on the first floor above. The applicant proposes a private evacuation alarm system (light and siren) set to trigger at a flood level 90 minutes into the PMF storm event allowing 75 minutes for people to pack and leave, and another sensor set to trigger at 180 minutes (different light and siren) indicating it is too late to leave and residents must shelter in place.

Evacuation will add pressure on a road system that is restricted in major flood events, and the efficacy of a private alarm system is questionable in terms of who maintains it in working order and how future residents will understand and respond to alarms when activated.

The NSW State Emergency Service (SES) provided advice (Attachment 2) on the Planning Proposal. The SES advice refers to the Ministerial Direction for Flooding and the NSW Floodplain Development Manual and identifies the following issues with Planning Proposal:

- zoning should not enable development that will result in an increase in risk to life, health or property of people living on the floodplain
- warning technology cannot be relied on to guarantee a faster response from the community and any advantage gained by the application of warning technology should be considered as a safety factor, not a potential for increasing development
- evacuation must not require people to drive or walk through flood water
- development strategies relying on deliberate isolation or sheltering in buildings surrounded by flood water are not equivalent, in risk management terms, to evacuation
- shelter in place is not a flood management strategy endorsed by the SES for future development, such an approach is only suitable to allow existing dwellings that are currently at risk to reduce their risk, without increasing the number of people subject to such risk
- SES is opposed to imposition of development consent conditions requiring private flood evacuation plans rather than application of sound land use planning and risk management
- SES is opposed to development strategies that transfer residual risk, in terms of emergency response activities, to the SES and/or increase capability requirements of the SES
- consent authorities should consider the cumulative impacts any development will have on risk to life and the existing and future community and emergency service resources.

The views of the SES, as the lead agency in NSW for planning for, responding to, and coordinating recovery from floods, should be paramount in land use decisions for flood-prone land. The agency has expressed a view that it does not support future development (i.e. new residential development enabled by rezoning) on flood prone land where early evacuation, private alarm systems and shelter in place strategies are necessary to manage flood risk. In other words, the Council should not support rezonings which place new communities in locations that expose people and property to risks associated with major floods and increase the potential burden on emergency services.



The proponent submitted a memorandum by Calibre dated 16 September 2022 in response to issues raised by the SES in its preliminary advice. Upon review of this further information, the SES advised it does not have any further comment.

The proponent further submitted a letter by SJB Planning dated 20 December 2022 and a letter by Calibre dated 20 December 2022, in which points were raised about the consistency of the flood risk assessment and evacuation requirements of the proposal with DPE's Flood Risk Management Manual and associated Flood Risk Management Guide EM01 (Guide EM01) published in February 2022, in particular the flow charts for rezoning and greenfield developments.

The SES confirmed that Guide EM01 is a draft, and the proposal has not satisfied the conditions outlined in Guide EM01, in particular:

- Noting that Boondah Road will be raised to the level of 1% AEP plus climate change, this area will still be a Low Flood Island. Low Flood Islands represent the highest risk to life.
- The proposed development does not have sufficient time to evacuate.
- The proposed modifications do not address the evacuation constraints.
- The flood evacuation constraints in an area should not be used as a reason to justify new development by requiring the new development to have a suitable refuge above the PMF. Allowing such development will increase the number of people exposed to the effects of flooding.

Since the release in draft of the abovementioned Guide EM01, catastrophic floods have occurred in NSW, and it is understood that the Department of Planning and Environment is giving further thought to the ways in which natural hazards can be better managed early in the strategic planning process.

The NSW government has explicitly recognised the important role of the planning system in supporting resilience in places and communities, and its' commitment to continuous improvement to the planning system to create greater resilience to chronic stresses and episodic shocks such as floods and bushfires.

Effective planning can and should reduce exposure to natural hazards. The Planning Proposal is fundamentally contrary to planning for resilience, as it will increase the number of people exposed to flood risk on the Northern Beaches.

Council's Floodplain Planning unit does not support the Planning Proposal and has indicated the proposal is not compliant with Local Planning Direction 4.1, identifying the following issues:

- the applicant has not demonstrated that the proposed development will not result in significant adverse impacts to other properties.
- land filling to raise the roads and building platforms appears to result in a net loss of flood storage in the mainstream flood lagoon floodplain.
- no volumetric figures showing the cut and fill balance have been provided.
- Council must be satisfied that the proposed development will convey water and have the same flood storage function as existing.
- it is not appropriate for Council to support future development (via rezoning) that uses shelter in place as a management strategy that will increase the flood risk and the number of people exposed to flooding.
- the applicant has not demonstrated that the proposed development will not result in a significantly increase requirement for government spending on emergency management services, flood mitigation or emergency response measures.

Council's Floodplain Planning unit also identified inconsistencies with:

- principles of the NSW Floodplain Development Manual 2005
- the Australian Disaster Resilience Handbook Collection
- Pittwater LEP Clause 5.21 Flood Planning

Given the level of filling proposed, loss of flood storage, exposure of people and property to flood risk, and the reliance on a shelter in place strategy with a private alarm system, the Planning Proposal is inconsistent with Pittwater Local Environmental Plan (LEP) clause 5.21 in that it will:

- result in significant adverse impacts to other properties or adverse cumulative impacts on flood behaviour in a way that results in detrimental increases in the potential flood affectation of other properties;
- adversely affect the safe occupation and efficient evacuation of people; and
- place people and property at risk or in intolerable conditions in the event of a major flood.

With regards to assessing flood risk for this proposal, Council's floodplain engineers have advised:

- when assessing flood risk, Council considers the full range of flood events up to the PMF
- during a PMF event, the roads will be cut off and evacuation will not be possible
- for events larger than 1% AEP + CC and up to the PMF event the proposal relies on shelter in place as the strategy to manage flood risk
- the DCP does allow for shelter in place when flood free evacuation during a PMF event is not possible, however as this is a rezoning application and not a development application, Council needs to consider SES's concerns and other relevant policies and guidelines. Shelter in place is generally only suitable for existing dwellings that are currently at risk to reduce their risk.

The imperative for Council to carefully consider the risks associated with development on flood prone land has increased markedly in recent years on account of extreme weather and flood events on the Northern Beaches and elsewhere in NSW and Queensland. On 28 June 2022, Council adopted the Northern Beaches Resilience Strategy, with a key priority and associated action being:

Priority 1. Avoid intensification of development, inappropriate development and incompatible land uses in areas exposed to natural and urban hazards.

Action 1a. Establish planning controls that limit intensification, inappropriate development and incompatible land uses to reduce or avoid risks from natural hazards.

This is a logical shift in policy toward a more considered and cautious approach to managing the risk posed by natural hazards, particularly in the context of climate change.

#### Response - Local Planning Direction 4.3 Planning for Bushfire Protection (Direction 4.3)

The referral response from Council's Bush Fire Management Coordinator highlights the following deficiencies in the Strategic Bush Fire Study submitted with the Planning Proposal:

- *"There is minimal consideration of the likelihood of a bush fire impacting the site and its potential severity on a landscape scale.*
- *The study relies on site specific protection measures rather than assessing the appropriateness of the proposal in the context of the surrounding landscape.*
- *The suitability of the proposal on the landscape should have stronger logical connections to informing the siting and layout of the proposed development.*
- *There is no assessment on the capacity of the road network either internally or externally to sufficiently handle evacuating residents and responding emergency services to/from the*

*proposal; nor identification of evacuation routes or assessment of the potential for the development to become isolated during a fire event.*

- *There is no assessment of the development impact on the provision or capacity of emergency services, other than minor references to the proximity of surrounding fire stations.*
- *There is no assessment of the provision of infrastructure services to the proposal as the study suggests that this should be the subject of a separate study.*
- *There is limited assessment of the impact of the proposal on neighbouring lands, and no consideration for managed lands to the south of the proposal to remain such in perpetuity.*
- *Site specific APZs are not contained within the development relying on adjoining road verges. Should any land with the proposal be vested to Council, Council may be burdened with the ongoing APZ management of these and/or adjoining road verges.*
- *The study indicates that perimeter roads within the proposal rely on a performance solution. Performance solutions should be accompanied with the appropriate Bush Fire Design Brief and/or Bush Fire Management Plan which has not been supplied."*

If the Planning Proposal proceeds through Gateway Determination, it will be formally referred to the Rural Fire Service for comment.

## **Site-Specific Merit**

### Section C – Environmental, social, and economic impact

*Q8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?*

The Applicant's report states that the Biodiversity Certification process will manage the potential impacts on identified threatened species, habitat, ecological communities, and that the masterplan for the proposal has been guided by the site's ecological constraints and bush fire management requirements with the perimeter road network providing a managed edge to the ecological values of the adjacent Wetland and a defensible perimeter for the development.

### Response

The site contains significant biodiversity values including Threatened Ecological Communities, mapped Coastal Wetland and Proximity Area for Coastal Wetland, records of threatened species, threatened species habitats and fauna connectivity.

Areas along the site's western boundary and the south-western corner of the site are mapped on the Department of Planning and Environment's Biodiversity Values map which identifies land with high biodiversity value that is particularly sensitive to impacts from development and clearing. The mapping is part of the Biodiversity Offsets Scheme (BOS) thresholds and any vegetation clearing as part of future development will trigger entry into the BOS. The applicant has made application for BioCertification to the State Government and the Biodiversity Certification Assessment Report and accompanying Conservation and Vegetation Management Plans have been formally submitted to Council for comment.

The two identified Endangered Ecological Communities (EEC) on the site are:

- Bangalay Sand Forest
- Swamp Oak Floodplain Forest

The six identified threatened fauna species are:

- Grey-headed Flying-fox (*Pteropus poliocephalus*)

- Large Bent-winged Bat (*Miniopterus orianae oceanensis*)
- Eastern Cave Bat (*Vespadelus troughtoni*)
- Southern Myotis (*Myotis macropus*)
- Little Bent-winged Bat (*Miniopterus australis*)
- Powerful Owl (*Ninox strenua*).

Earthworks and clearing for the proposed development will directly impact all the Bangalay Sand Forest which covers around 0.23ha and is entirely within the proposed R3 zone residential area. The complete removal of this vegetation represents the loss of approximately 50% of the mapped extent of this EEC on the Northern Beaches. Nine hollow-bearing trees, some with hollows suitable for the recorded Southern Myotis will be removed. Whilst this vegetation is degraded, intact mature canopy remains. The layout of the proposed development fails to avoid or minimise impacts to this EEC. The BioCertification application recommends retirement of biodiversity credits or more likely payment into the State Government's Biodiversity Conservation Fund to offset the impact.

The Swamp Oak Floodplain Forest (SOFF) covers 0.44ha of the site and 0.18ha would be directly impacted by the proposed development. The remainder is located within the portion of the site proposed to be zoned C2 Environmental Conservation.

The six recorded threatened fauna species and their habitats will be significantly impacted and clearing will remove existing wildlife corridors through the site between core habitats in Warriewood Wetlands to the west and corridors along Narrabeen Creek to the east of the site.

In addition to the direct removal of vegetation, altered surface and groundwater flow regimes have potential to adversely impact ground water dependent ecosystems on the site and in the wetland.

Other potential impacts relate to 'edge effects' to the wetland and remaining SOFF associated with maintaining a 24m wide Bushfire APZ along the site's western boundary. The required 15m wide extensively landscaped buffer to the wetland should be outside of the APZ.

The referral response from Council's Biodiversity and Planning unit states:

*"...the Planning Proposal is not supported for the following reasons:*

- *Lack of measures to avoid and minimise impacts to threatened biodiversity, including the complete removal of Bangalay Sand Forest. It is noted that the BCAR states that the proposal will lead to the avoidance of the majority of mapped biodiversity values within the subject lots, however this is not correct as the full extent of BSF on site will be directly impacted, as well as impacts to six threatened fauna species and other native flora and fauna species.*
- *Regardless of the reduced development footprint, it appears that the development within the proposed R3 zone intersects the BV map / Coastal Wetland and as such, the current concept proposal for 10 & 12 Boondah Road would require an EIS.*
- *The current design is not sited and designed to avoid and minimise impacts to biodiversity. The proposal would result in a direct net loss of biodiversity. Potential impacts that would result from the proposal include locating dwellings, associated infrastructure, excavation and filling, and APZs within the mapped coastal wetland. Further impacts to biodiversity include the clearing of native vegetation and endangered ecological communities, impacts to threatened species habitats, reduction in local wildlife connectivity, indirect impacts associated within increased light and noise pollution, and impacts to ground water dependent ecosystems within the site and adjoining Warriewood wetlands.*
- *The requirement for the retention and enhancement of an ecological buffer to protect the mapped coastal wetland on site and to the adjoining Warriewood Wetlands needs*

*amendment to achieve a suitable biodiversity outcome and reduce potential impacts to the adjoining wetland;*

- *The lack of a 15 metre wide extensively landscaped buffer strip adjoining Warriewood Wetlands, exclusive of bushfire asset protection zone, and consisting of landscaped mounds with mass plantings of native trees and shrubs, locally indigenous canopy trees with native shrubs, locally indigenous canopy trees with native shrubs and groundcovers as required by the P21 DCP control 6.6 Landscape treatment of the Buffer Strip. ...*
- *Flooding, flood storage and water flows are of concern, and the areas of significant vegetation (trees), fauna habitats and wetland buffers should be retained must not be subject to any excavation / filling.*
- *The removal of wildlife corridors through and surrounding the site including direct connection to core habitats within Warriewood Wetlands, as well as connections to the east that form part of a wildlife corridor that extends further north along the Narrabeen Creek catchment. It is recommended that a corridor is provided in the northern boundary of the site, thereby retaining, enhancing and protecting areas of the TEC BSF.*
- *Potential for indirect and prescribed impacts to TECs, threatened species and their habitats*
- *Likelihood of altered surface and groundwater flow regimes, and therefore potential direct and indirect impacts to Groundwater Dependent Ecosystems (GDE) on the subject site and in the locality.*
- *A reliance within the BCAR that an appropriate storm water management plan will be prepared to avoid impacts on the TEC, and is not expected to impact on groundwater resources or groundwater dependent ecosystems.*

*Therefore, the range of issues described above, as well as the loss of native tree canopy, will result in a future development that does not satisfy the applicable planning controls, and is not supported by Council's Biodiversity Planning section.*

*In addition, the offset obligations calculated as part of the Biodiversity Certification Assessment Report for the TECs and threatened species are not available on the Northern Beaches, and therefore will result in net loss of biodiversity within the Northern Beaches LGA."*

Council's Catchments unit also raised concerns in relation to impacts on groundwater dependent ecosystems, earthworks in the buffer to the wetland, and the need for water quality monitoring and further groundwater and hydrological investigations to demonstrate that impacts on the downstream environment and the wetland can be suitably managed. The Catchments unit does not support the Planning Proposal as it is not in accordance with Local Planning Direction 4.2 Coastal Management or SEPP (Resilience and Hazards) 2021.

*Q9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

The proponent's report identifies potential impacts associated with flood and bushfire hazard, acid sulphate soils and contamination, and makes reference to various aspects of the design and layout of the proposed development and studies undertaken for the Planning Proposal as evidence that these potential impacts can be minimised and are within acceptable levels.

#### Response

As discussed earlier, in relation to flood hazard, the SES has raised significant concerns and does not support shelter in place or private alarm systems as a strategy to manage flood risk for future development on land not currently zoned for housing. Extensive filling of the site to achieve flood planning levels will result in net loss of flood storage in the floodplain and insufficient information has been provided to demonstrate that the proposed development will not result in adverse impacts to other properties, place people and property at risk or in intolerable conditions in the

event of a major flood, adversely affect the safe occupation and efficient evacuation of people, or significantly increase the requirement for government spending on emergency management, flood mitigation and emergency response measures.

As discussed earlier, in relation to bushfire hazard, Council's Bush Fire Management Coordinator has identified deficiencies in the Strategic Bush Fire Study submitted by the proponent.

The applicant's submissions in relation to acid sulphate soils and contamination are accepted.

*Q10. Has the planning proposal adequately addressed any social and economic effects?*

The applicant's report describes the proposed affordable housing, traffic impact assessment and access road network, and provision of open space with a playground and pedestrian link between Boondah Road and Warriewood Wetlands in relation to addressing social and economic effects.

#### Response

As discussed earlier, the Planning Proposal fails to include a suitable mechanism to give effect to an affordable housing contribution in accordance with Council's Policy and Contributions Scheme. These documents contemplate that dwellings secured for affordable housing are meant to come into Council ownership in perpetuity. Any residential uplift will require 10% of the dwellings to be affordable housing stock transferred into Council ownership. Amendments to Council's Affordable Housing Scheme and to Pittwater LEP to secure this contribution would need to be made in conjunction with a Planning Proposal being progressed to Gateway Determination, and eventually published as part of the rezoning.

Council's Transport Network Manager has provided a referral response on the Planning Proposal which indicates that the road design is acceptable subject to certain requirements which can be resolved at the more detailed application stage. Although the impact on the local road network is acceptable, the applicant is still required to provide confirmation that the modelling requirements of the RMS (now Transport for NSW) have been met, particularly with regards to potential impacts on the intersections of Mona Vale Road/ Pittwater Road and Pittwater Road/Warriewood Road. If the Planning Proposal proceeds through Gateway Determination, it will be formally referred to Transport for NSW for comment.

The proposed open space area including the playground will provide for the recreation needs of the new resident population. The playground and open space would form part of a community title and be constructed and maintained by the landholders. The playground and open space are not suitable for Council ownership as a park asset.

The proposed pedestrian pathway connection between Boondah Road and Warriewood Wetlands would be required to be constructed by the developer and dedicated to Council to ensure public access. The location of the pathway through the southern end of the site is potentially acceptable, however it should be separate to the internal road network and not cross any internal roads.

There are potential economic effects associated with the proposed C2 zoned land. While the applicant has stated that the proposed C2 zoned land is intended to remain in private ownership, without confirmation to indicate otherwise, there is a possibility that the C2 zoning could trigger acquisition and there is no funding mechanism for Council to purchase the land.

There is also no certainty as to who will be responsible for any ongoing supervision and/or maintenance of this land, or bushfire APZs and the buffer to the wetland, and it may be a further economic burden placed upon the Council.

Additionally, as discussed earlier in relation to flood hazard, the proposed flood responses are insufficient and transfer residual risk in terms of emergency response to the SES, thereby increasing demands on SES resourcing and capabilities and potentially increasing risk to life, health and property for both existing and future communities.

### Section D – Infrastructure (Local, State and Commonwealth)

#### *Q11. Is there adequate public infrastructure for the planning proposal?*

The referral response from Council's Infrastructure unit identifies the following local infrastructure requirements if a rezoning to permit an additional 45 dwellings on the site were to proceed:

- Reconstruction of Boondah Road

The applicant's report acknowledges the requirement for raising of Boondah Road to the level of 1% AED plus climate change. If the Planning Proposal is to proceed, the full width of Boondah Road for the entire length of the site's frontage would need to be constructed up to the level required for flood evacuation (1% AED plus climate change) including suitable transitions to the existing carriageway alignments.

- Payment of development contributions towards open space infrastructure and community facilities in accordance with the applicable Development Contributions Plan.

An additional 45 dwellings will represent around 120 additional residents, or an increase of around 2.2% in the total population forecast for Warriewood Valley. Council's Parks unit has advised that this will place additional pressure on active recreation facilities, but in and of itself does not justify further augmentation of existing facilities in Warriewood Valley or the acquisition of additional ones.

The approved design of a new community facility in Warriewood Valley will once constructed provide sufficient floorspace to accommodate the additional resident population if the Planning Proposal were to proceed.

### Section E - State and Commonwealth interests

#### *Q12. What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?*

The NSW SES was the only agency consulted and their advice is not supportive of the Planning Proposal.

## **CONSULTATION**

A non-statutory (Pre-Gateway) public exhibition of the Planning Proposal was undertaken from 29 July 2022 to 12 August 2022.

A total of eight submissions (one late) were received. The issues raised are summarised in Attachment 3. Two of the submissions indicated support for the proposal. The issues raised relate to:

- loss of green space;
- impact on wildlife and environment, including wetland;
- traffic and road safety;
- building height out of character;
- potential increase in run-off and flooding of nearby properties;
- negative impact on property values;
- need for master planning for development of other properties along Boondah Road;
- disruption from construction;
- opposition to affordable housing; and
- flooding impact, roads out being cut off by floodwater.

## TIMING

The Planning Proposal was lodged via the NSW Government's Planning Portal. The applicant is able to request a rezoning review if Council has not indicated support for the proposal within a certain timeframe, which in this case is 115 days for a planning proposal categorised as Complex due to its inconsistency with Council's endorsed LSPS and the relevant regional and district plans.

The proponent paid the application fees on 18 July 2022 and Council completed its initial check of on 22 July 2022. Based on that date, the 115 day deadline passed 14 November 2022.

The Northern Beaches Planning Panel (the Panel) first considered the proposal at its meeting on 16 November 2022 and agreed to defer its decision at the request of the applicant. At its meeting on 21 December 2022, the Panel determined its advice to Council to reject the proposal.

At the time of writing this report, the proponent had not sought a rezoning review.

## LINK TO STRATEGY

The assessment in this report relates to the Community Strategic Plan Outcomes of:

- Protection of the environment - Goal 1 Our bushland, coast and waterways are protected for their intrinsic value
- Protection of the environment - Goal 2 Our environment is resilient to natural hazards and climate change
- Housing, places and spaces - Goal 10 Our community has access to diverse and affordable housing options to meet their current and evolving needs

## FINANCIAL CONSIDERATIONS

If Council resolves to reject the Planning Proposal and the development does not proceed, there will be minimal financial impact on Council, with the possible exception of costs associated with any review. If the proposal were to proceed, financial considerations for Council include potential costs associated with flood mitigation and emergency management, response and recovery after flood events, possible acquisition obligations for the C2 zoned land, and ongoing supervision and/or maintenance of bushfire APZs and the buffer to the wetland. Any future development consent would require a contribution in accordance with the Warriewood Valley Development Contributions Plan. The developer would be responsible for works to raise and widen Boondah Road and construct the children's playground.

## SOCIAL CONSIDERATIONS

There is potential for significant adverse social impacts as a result of flooding. The proposal relies on a private alarm system for early evacuation in the event of a major flood. For those unable to evacuate in time, when the evacuation route becomes impassable in floods above 1% + climate change, the proposal relies on shelter in place. In a PMF event this would involve sheltering on the upper levels of the proposed townhouses. At a fundamental level, rezoning land to allow housing in a location that exposes people and property to flood hazards represents increased risk for the community and potentially increases the burden on emergency services. The SES has raised significant concerns about the proposal.

There is no overriding social benefit in terms of housing provision. Council is readily able to meet its housing targets through a methodical, strategic, principles-based approach to increasing housing capacity in and around its most accessible centres, including an additional 1300 dwellings in Brookvale. There is no need to rezone the subject land in Warriewood, especially given the site-specific constraints and potential environmental, social, and economic impacts.



The proposal fails to provide for the required affordable housing contribution, dedicated to Council in perpetuity.

### **ENVIRONMENTAL CONSIDERATIONS**

The likely environmental impacts of the proposed development include loss of EEC vegetation and associated impacts on threatened species, habitat and wildlife corridors, altered groundwater flow regimes with potential impacts on groundwater dependent ecosystems both on the site and in the adjacent wetland, and potential edge effects on the wetland and remaining EEC vegetation on the site due to failure to provide adequate vegetated buffers.

The proposal does not take adequate measures to protect or enhance the hydrological and ecological integrity of the mapped Coastal Wetland or to minimise impact on the quantity and quality of surface and ground water flows to and from the adjacent Coastal Wetland.

Extensive filling of the site to achieve flood planning levels will result in net loss of flood storage in the floodplain, and it has not been demonstrated that the proposed development will not result in adverse flood impacts to other properties or contribute to significant cumulative impacts.

### **GOVERNANCE AND RISK CONSIDERATIONS**

By far the most significant risk consideration for Council is the increased exposure to flood hazard for the community, and for emergency services.

Other risks considerations if the proposal were to proceed relate to biodiversity and water quality impacts, and the ongoing conservation management of the C2 zoned land.

If Council decides to reject the Planning Proposal, it is possible that the applicant will request a rezoning review. If that occurs, the decision as to whether the Planning Proposal can proceed will rest with the Sydney North Planning Panel.

<b>ITEM 12.2</b>	<b>PLANNING PROPOSAL FOR 6 MITCHELL ROAD, PALM BEACH - PEX2022/0003</b>
<b>REPORTING MANAGER</b>	<b>EXECUTIVE MANAGER STRATEGIC &amp; PLACE PLANNING</b>
<b>TRIM FILE REF</b>	<b>2023/045950</b>
<b>ATTACHMENTS</b>	<b>1 <a href="#">⇒</a> Planning Proposal - 6 Mitchell Road, Palm Beach (Included In Attachments Booklet)</b> <b>2 <a href="#">⇒</a> Heads of Agreement between Pittwater Council and Trustees of the Bible Garden (Included In Attachments Booklet)</b> <b>3 <a href="#">⇒</a> Submissions Response Table (Included In Attachments Booklet)</b> <b>4 <a href="#">⇒</a> Local Planning Panel - Minutes, 14 December 2022 (Included In Attachments Booklet)</b> <b>5 <a href="#">⇒</a> Probity Audit Report (Included In Attachments Booklet)</b>

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## SUMMARY

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### PURPOSE

To seek endorsement to submit a Planning Proposal for land at 6 Mitchell Road, Palm Beach to the Department of Planning and Environment for a Gateway Determination.

### EXECUTIVE SUMMARY

On 12 September 2022, Council received a proponent-initiated Planning Proposal for 6 Mitchell Road, Palm Beach (Lot 1, DP 1086858). The application was submitted by Planning Hub.

6 Mitchell Road is a privately-owned property and is adjacent to 6A Mitchell Road which is known as the 'Bible Garden' and is owned by Council. The 'Bible Garden' is a garden containing plants mentioned in the bible which has been open to the public since it was established in the 1960s. The land had previously been settled in a charitable trust. In 2004, the trustees of the Bible Garden sought to subdivide the land to create separate lots for the existing Bible Garden at the front (southern portion) of the site and the residential use at the rear (northern portion) of the site such that:

- The Bible Garden area was to be vested in Council as community land and zoned as a public reserve.
- The balance of the land would continue to be used for residential purposes.

This land is naturally subdivided by a cliff. The rear of the land is traversed diagonally by a right of way and driveway. Over the cliff section, the right of way is provided by an elevated concrete driveway. The driveway provides residences to the east of the site with access to Mitchell Road. A cottage exists under the elevated section of driveway. A viewing platform exists above the existing house/parking space for the house.

The steep topography and the overhanging viewing platform create challenges in relation to a two-dimensional subdivision. When the land was subdivided, the viewing platform for the Bible Garden (that overhangs the existing house/parking space for the house) was included in the front lot (6A Mitchell Road) and the house and parking space underneath the viewing platform was included in the rear lot (now 6 Mitchell Road and the subject of the Planning Proposal) via stratum subdivision.

On 30 March 2007, 6A Mitchell Road was rezoned under the Pittwater Local Environmental Plan 1993, from Zone No. 2 (a) (Residential "A") to Zone No 6 (a) (Existing Recreation "A"). This included the land above 74.5AHD.

The lower allotment containing the dwelling house, 6 Mitchell Road, remained Zone No. 2 (a) (Residential "A"). This includes the portion of 6 Mitchell Road below 74.5 AHD.

On 26 June 2014, Pittwater Local Environmental Plan 2014 (Pittwater LEP 2014), prepared under the Standard LEP Template, came into effect, repealing Pittwater LEP 1993.

The provisions in the Standard Instrument LEP didn't allow for as much flexibility in the zoning of this unique site. This resulted in the properties being zoned as follows:

- 6 Mitchell Road, Palm Beach (the subject of this Planning Proposal application) – The land was rezoned from Zone No. 2 (a) (Residential "A") as follows:
  - majority of the site zoned C4 Environmental Living; and
  - the portion of the site below 74.5AHD, directly underneath the Bible Garden's viewing platform, became zoned RE1 Public Recreation.

Under the RE1 Zone, 'dwelling house' is prohibited.

- 6a Mitchell Road, Palm Beach was rezoned from Zone No 6 (a) (Existing Recreation "A") to RE1 Public Recreation.

On 25 January 2021, a Development Application (DA2020/1596) was lodged to construct a dwelling house, including a swimming pool, driveway, and garage on 6 Mitchell Road. Components of the dwelling house, primarily the garage and lift were proposed to be sited on that portion of land zoned RE1 Public Recreation.

On 18 August 2021, the DA2020/1596 was refused. The primary reason for refusal was that the residential development proposed to be built on that portion of the site zoned RE1 Public Recreation is prohibited under the zone.

On 12 September 2022, Planning Hub submitted Planning Proposal application (PEX2022/0003) for 6 Mitchell Road Palm Beach. The application seeks to amend the Pittwater Local Environmental Plan 2014 (PLEP 2014) to include as an additional permitted use, "dwelling house" on that portion of the site zoned RE1 Public Recreation and to restrict any future residential development on 6 Mitchell Road to a height of 74.5AHD.

Allowing a "dwelling house", as an additional permitted use, on a minor portion of the site that is zoned RE1 Public Recreation due to it being underneath the Bible Garden's overhang will not result in any of the following:

- a practical reduction of land that is to be used for public open space or recreational purposes;
- endangering or weakening the natural environment for recreational purposes; or
- diminishing public use of, or access to, public open space resources.

The application was placed on non-statutory exhibition for three weeks, from 28 September 2022 to 21 October 2022 inclusive. Six submissions were received.

Council staff have considered the request, prepared a Planning Proposal and conducted an assessment of the Planning Proposal against the Department of Planning & Environment's (the 'Department') *Planning Proposals: A Guide to Preparing Planning Proposals* which confirms that the proposal provides sufficient strategic merit and overall demonstrates site-specific merit.

On 14 December 2022, the Northern Beaches Local Planning Panel considered the Planning Proposal and supporting documentation. The Local Planning Panel has recommended that Council support the Planning Proposal.

The Planning Proposal prepared by staff is now provided to Council for consideration (Attachment 1). If supported, the Planning Proposal will be forwarded to the Department of Planning and Environment for Gateway Determination. The Planning Proposal will be placed on statutory public exhibition in accordance with any Gateway approval. The outcomes of the statutory public exhibition will be reported to Council for consideration.

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#### **RECOMMENDATION OF DIRECTOR PLANNING AND PLACE**

That Council:

1. Submit the Planning Proposal for 6 Mitchell Road, Palm Beach to the Department of Planning and Environment for a Gateway Determination.
  2. Publicly exhibit the Planning Proposal in accordance with any Gateway approval granted by the Department of Planning and Environment.
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**REPORT**

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**BACKGROUND**

6 Mitchell Road (the subject of the Planning Proposal) and 6A Mitchell Road were previously one residential allotment (known as 6 Mitchell Road, Lot 2 DP 213975) with a total site area of 1,196m<sup>2</sup>.

The land is naturally bisected by a cliff. The lower level of the property contained a dwelling house, and the upper level contained a garden. This garden, known as the Bible Garden, was established in 1962 and was so named as the garden contains plants mentioned in the bible. It has been open to the public for weddings, baptisms, and informal visits since it was established in the 1960s. The land had previously been settled in a charitable trust.

From 1972 to 1994, Deaconess Beatrice Violet Robinson, as curator of the garden and Trustee of the Bible Garden Memorial Trust, maintained the Bible Garden for the public's enjoyment.

**Heads of Agreement**

Following the death of Beatrice Robinson in 1994, the Trustees of the Bible Garden approached the then Pittwater Council seeking advice regarding the retention of the Bible Garden curtilage whilst excising the remaining portion of land containing the dwelling house.

As a result, a Heads of Agreement (Attachment 2) was signed by Pittwater Council and the Trustees of the Bible Garden on 9 February 2004 to investigate opportunities to subdivide the property as follows:

- Excise the portion of land containing the existing dwelling from the lot containing the Bible Garden curtilage.
- The new lot containing the existing dwelling being sold as a residential allotment.
- Retain the lot containing the Bible Garden curtilage.

The Heads of Agreement included concept sketches to identify the future intent and vision of the land. The portion of land between the two allotments had been identified as the location of a potential future garage for the dwelling. A restrictive covenant would control the height of the garage and require the roof to be of load-bearing capacity suitable for use as a potential future viewing platform from the Bible Garden. A concept sketch from the Heads of Agreement is in Figure 1. The garage and potential viewing platform are identified in the red bubble.

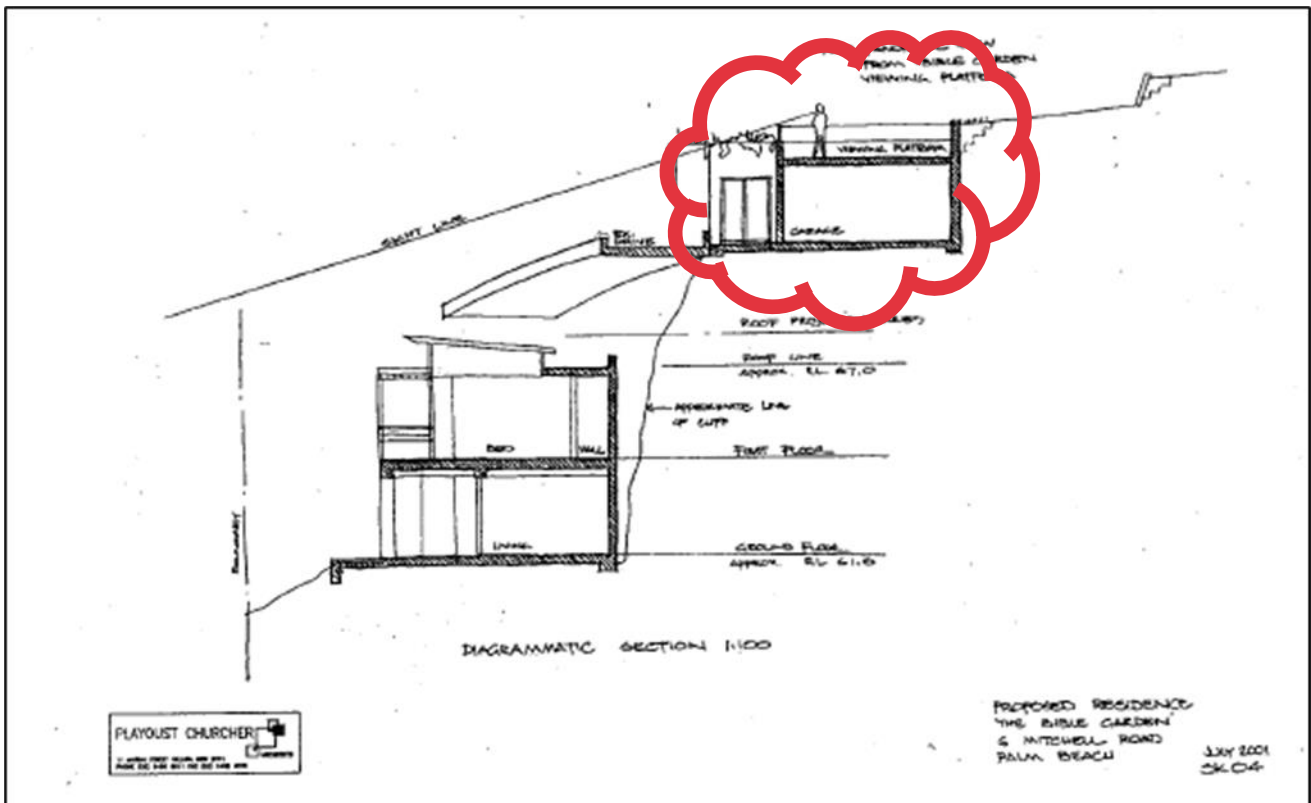


Figure 1: Concept Sketch from Heads of Agreement

## Development Consent for Subdivision of Land

On 11 November 2004, a Development Application (N0824/04) to subdivide the land into two allotments was lodged with Council. This application was consistent with the signed Heads of Agreement. On 4 April 2005, Council consented to the subdivision into two allotments subject to conditions.

The steep topography of the site and the need to maintain the viewing platform created challenges in relation to a two-dimensional subdivision, resulting in the creation of the two properties via stratum subdivision. A stratum subdivision creates allotments which are limited in height or depth, allowing properties to be effectively created on top of each other. The subdivision created the following allotments:

- Lot 1 DP1086858, now known as 6 Mitchell Road – Containing the existing dwelling and parking space underneath the viewing platform at the rear of the lot.
- Lot 2 DP1086858, now known as 6A Mitchell Road – Containing the Bible Garden and the viewing platform above the parking space on Lot 1.

A location map of 6 Mitchell Road (the subject of the Planning Proposal) and 6A Mitchell Road (the Bible Garden) is in Figure 2. The portion of land between the two allotments, identified in the Heads of Agreement for the garage and viewing platform, is subdivided in stratum, and is split between both allotments. This land is identified with the white bubble. In relation to this part of the land, the Deposited Plan and registered easements stipulate:

- Lot 1 (6 Mitchell Road) is limited in title to a height of 74.5 AHD.
- Lot 2 (6A Mitchell Road) is limited in title to a depth of 74.5 AHD.



Figure 2: Location Map of 6 and 6A Mitchell Road, Palm Beach

6A Mitchell Road was transferred into Council ownership on 7 February 2006 and classified as community land under Council's Land Register in accordance with the *Local Government Act 1993*. Although Council owns this land, it is managed by the Friends of the Bible Garden Memorial via a Management Deed signed by Council, The Trustees of the Bible Garden and then owner of 6 Mitchell Road on 23 March 2006.

On 18 December 2006, Council adopted the Bible Garden - Palm Beach Plan of Management, which lists what land uses are permissible (as exempt development or with consent) under this adopted plan. A copy of the signed Management Deed is also appended to the adopted Plan of Management.

Figure 3 is an excerpt from the Planning Proposal and is a picture taken from 6A Mitchell Road (the Bible Gardens) looking north over 6 Mitchell Road. The red string (shown in the white bubble) identifies the stratum boundary between the properties at a height of 74.5 AHD. The yellow string represents the existing ground level (76.3 AHD) of the viewing platform on the Bible Gardens.



Figure 3: Extract from Planning Proposal - Site picture with height poles

### Pittwater Local Environmental Plan 1993

On 30 March 2007, 6A Mitchell Road was rezoned under the Pittwater Local Environmental Plan 1993, from Zone No. 2 (a) (Residential "A") to Zone No 6 (a) (Existing Recreation "A"). This included the viewing platform land above 74.5 AHD.

The lower allotment containing the dwelling house, 6 Mitchell Road, remained Zone No. 2 (a) (Residential "A"). This includes the portion of land below 74.5 AHD.

An extract of the zoning map, obtained from the adopted Bible Garden Plan of Management, is in Figure 4.





Figure 4: Zoning under Pittwater LEP 1993

### Pittwater Local Environmental Plan 2014

On 26 June 2014, the Pittwater Local Environmental Plan 2014 (Pittwater LEP 2014), prepared under the Standard LEP Template, came into effect, repealing Pittwater LEP 1993.

This resulted in the properties being zoned as follows:

- 6 Mitchell Road, Palm Beach (the subject of the Planning Proposal) – The land was rezoned from Zone No. 2 (a) (Residential “A”) as follows:
  - majority of the site is zoned C4 Environmental Living; and
  - the portion of the site directly underneath the Bible Garden’s viewing platform (below 74.5 AHD) became zoned RE1 Public Recreation.
- 6A Mitchell Road, Palm Beach was rezoned from Zone No 6 (a) (Existing Recreation “A”) to RE1 Public Recreation.

An extract of the Pittwater LEP 2014 zoning map is in Figure 5.

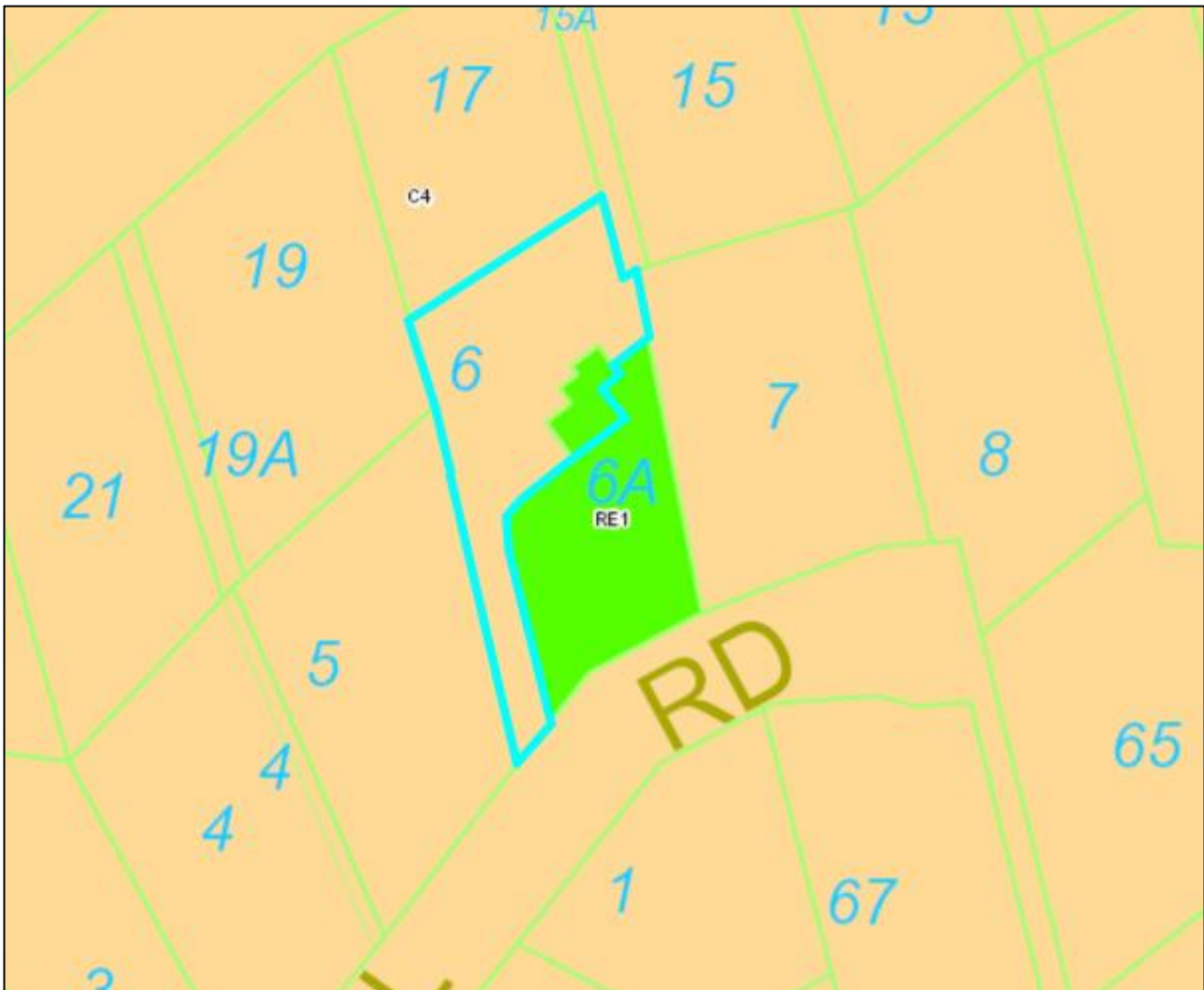


Figure 5: Zoning Map Pittwater LEP 2014

### Recent Development Application

On 25 January 2021, Council received a Development Application (DA2020/1596) for 6 Mitchell Road to construct a dwelling house including a swimming pool, driveway, and garage.

Components of the dwelling house, primarily the garage and lift were proposed to be sited on that portion of land zoned RE1 Public Recreation.

On 18 August 2021, the DA2020/1596 was refused. The primary reason for refusal was that the residential development proposed to be built on that portion of the site zoned RE1 Public Recreation is prohibited under the zone.

### Pre-Lodgment Meeting

Following refusal of DA2020/1596, pre-lodgement meetings were held between the landowner's legal representatives and Council on 19 August and 14 December 2021 to discuss the RE1 zoning on the portion of the land.

### Site Description

The subject site, known as 6 Mitchell Road, Palm Beach (Lot 1, DP 1086858), is a battle axe shaped lot located on the northern side of Mitchell Road. Access to this property is provided via an elevated driveway from Mitchell Road along the western (side) boundary. This elevated driveway also provides access to 15 Florida Road, located north-east of the subject site (see Figure 6).

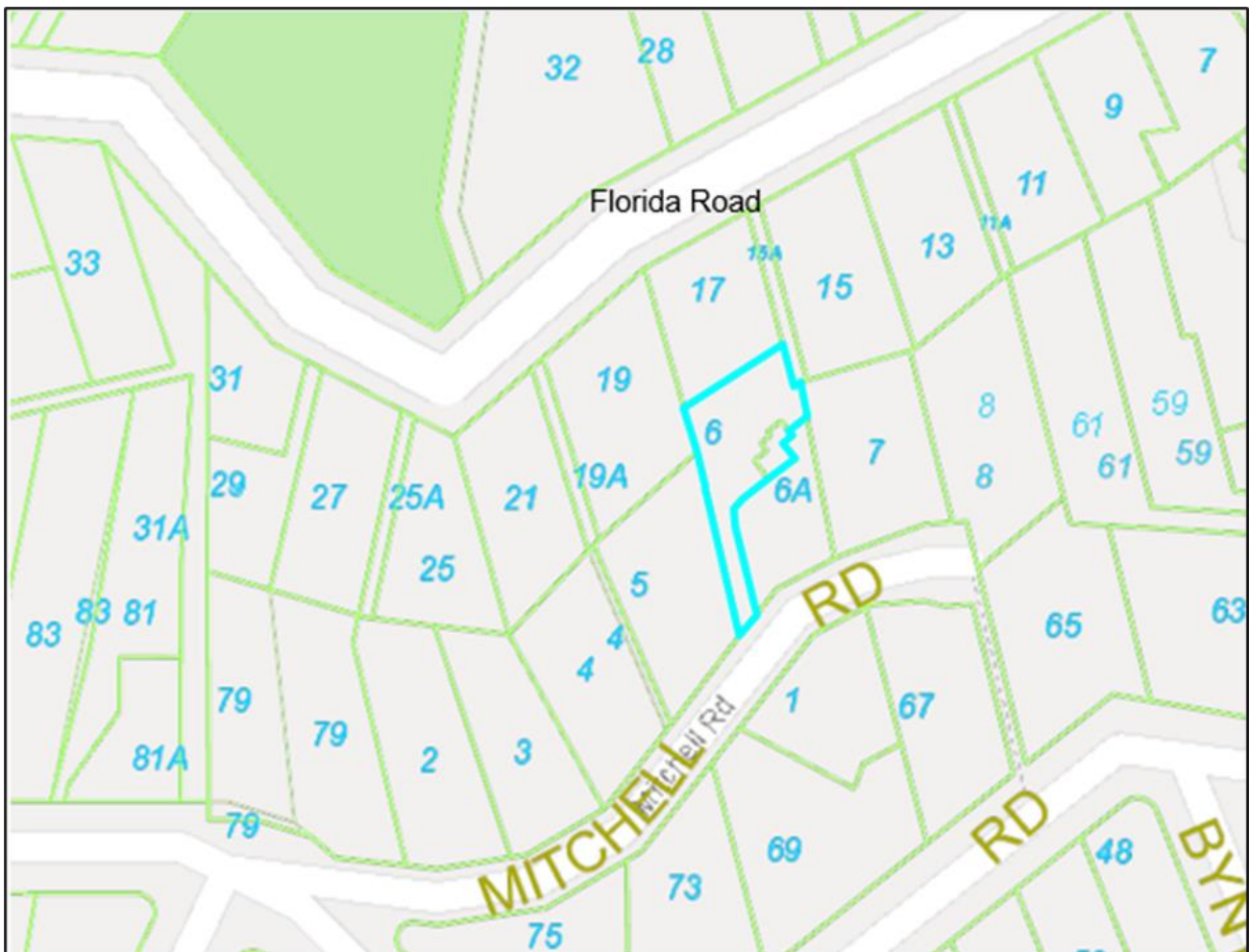


Figure 6: Locality Map

An existing dwelling is located on the lower portion of the subject site. Pedestrian access into the dwelling from Mitchell Road is via stairs sited beside the elevated driveway.

6 Mitchell Road is Zoned C4 Environmental Living and RE1 Public Recreation under the Pittwater LEP 2014. The surrounding Properties are a mix of established low density residential areas zoned C4 Environmental Living.

The Bible Garden at 6A Mitchell Road not only abuts this land but overhangs directly above a portion of the subject site from a depth of 74.5 AHD. 6A Mitchell Road (inclusive of the overhang) is a locally listed heritage item. Due to the nature of the stratum subdivision, the portion of the subject site underneath the Bible Garden overhang is also listed as a heritage item. A picture showing the relationship between the Bible Garden overhang and the portion of 6 Mitchell Road underneath is in Figure 7 (shown in the white bubble).



Figure 7: Location of Bible Garden overhang between 6 and 6A Mitchell Road

## The Proposal

On 12 September 2022, Council received a proponent-initiated Planning Proposal for 6 Mitchell Road, Palm Beach (Lot 1, DP 1086858), submitted by Planning Hub.

The intent of the Planning Proposal is to amend the Pittwater LEP 2014 to include an additional permitted use of a 'dwelling house' on the RE1 zoned portion of the site (being the land below the Bible Garden viewing platform) to facilitate future residential development in line with the intended use of the site as outlined in the Heads of Agreement, signed 9 February 2004, between the Trustees of the Bible Garden and Pittwater Council.

A provision is also proposed restricting the building height of any future residential development on the site to 74.5 AHD, ensuring that the views of Palm Beach from the Bible Gardens are preserved.

## Assessment Of Planning Proposal

An assessment of the Planning Proposal was undertaken in accordance with the Department of Planning and Environment's Local Environmental Plan Making Guideline 2022, as follows.

### **Part 1- Objectives or Intended Outcomes**

The objectives and intended outcomes of the Planning Proposal are to seek an amendment to PLEP 2014 to allow a section of the subject site, zoned RE1 Public Recreation, to permit development for the purposes of a dwelling house; and to seek that residential development on the site cannot exceed a height of 74.5 AHD.

Applying the rules of the Standard LEP Template required that land, including land beneath 74.5 AHD under the Bible Garden overhang was zoned RE1 Public Recreation under Pittwater LEP 2014.

This change in zoning under Pittwater LEP 2014 resulted in the prohibition of a dwelling house on that portion of site zoned RE1, contrary to the signed Heads of Agreement.

The Planning Proposal seeks to rectify this zoning prohibition, to permit a dwelling house on a small portion of the land. This is considered reasonable and in keeping with the signed Heads of Agreement upon which Council received dedication of the Bible Garden land.

Imposing a building height of 74.5 AHD for any future residential development on the subject site is also appropriate and is consistent with the signed Heads of Agreement.

The Planning Proposal is site-specific and can only be applied to 6 Mitchell Road, Palm Beach.

### **Part 2 – Explanation of Provisions**

The Planning Proposal amends the following provisions of the Pittwater LEP 2014:

- Additional Permitted Uses Map for the subject site (Sheet APU\_015) to identify the portion of the site zoned RE1 Public Recreation for additional permitted uses referenced in Schedule 1 of LEP.
- Schedule 1 to include a provision relating to the subject site that would permit development for the purposes of a dwelling house. Schedule 1 is to also detail that any future residential development on the site cannot exceed a height of 74.5 AHD.

The amendments support the creation of an additional permitted use for a dwelling house on that portion of the land currently zoned RE1. This is best served by amending the Additional Permitted Uses Map, to identify 6 Mitchell Road as referenced in Schedule 1 of Pittwater LEP 2014.

Currently, the Height of Building Map and Clause 4.3 Height of Buildings under Pittwater LEP 2014 applies to the land. The proposal to require that any future residential development on the site cannot exceed a height of 74.5 AHD by way of Schedule 1 is appropriate. This will apply to all of 6 Mitchell Road and not just the portion of the site zoned RE1. This restriction will apply in addition to the existing height provisions of the Pittwater LEP 2014 which will remain unchanged.

The measurement of 74.5 AHD ensures that any future development is below the level of the Bible Gardens and thus retains significant and important views to the ocean, Pittwater and beyond.

Accordingly, it is proposed to amend the Explanation of Provisions to read as follows:

- a) Amend the Pittwater LEP 2014 Additional Permitted Uses Map for the subject site 6 Mitchell Road, Palm Beach (Sheet APU\_015) to identify the site for additional permitted uses referenced in Schedule 1 of Pittwater LEP 2014.

- b) Amend Schedule 1 of the Pittwater LEP 2014 to include a provision for 6 Mitchell Road, Palm Beach:
- Permit development for the purposes of a dwelling house on that portion of the land zoned RE1 Public Recreation.
  - In addition to any other provision in this Plan, any future residential development on 6 Mitchell Road, Palm Beach cannot exceed a height of 74.5 AHD.

### **Part 3 – Justification**

#### **Strategic Merit**

##### Section A – Need for the Planning Proposal

*Q1. Is the Planning Proposal a result of an endorsed Local Strategic Planning Statement, Strategic Study or report?*

The Planning Proposal is not the result of the Northern Beaches Local Strategic Planning Statement, strategic study, or report.

The proposal is consistent with the Heads of Agreement signed in 2004 by Pittwater Council and the then owners of the land. It is also consistent with several objectives and priorities within the Northern Beaches Local Strategic Planning Statement - Towards 2040 (detailed in Q4 below).

The proposal will enable appropriate residential development that recognises the heritage significance of the site and surrounding area, and will not adversely impact on the ecological, cultural, or scenic significance of the site and surrounding area.

*Q2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

Yes, a Planning Proposal is the only way of achieving the objectives and intended outcomes for this site that is also consistent with the signed Heads of Agreement.

The signed Heads of Agreement included a condition that any future residential development cannot exceed 74.5 AHD.

Allowing a 'dwelling house' as an additional permitted use, on a minor portion of the site that is zoned RE1 Public Recreation will not result in any of the following:

- a practical reduction of land that is to be used for public open space or recreational purposes;
- endangering and weaken the natural environment for recreational purposes; and
- diminishing public use of, or access to, public open space resources.

##### Section B - Relationship to Strategic Planning Framework

*Q3. Will the Planning Proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?*

The Planning Proposal is consistent with both the Greater Sydney Region Plan and the North District Plan.

The Planning Proposal will also achieve the following objectives under the Greater Sydney Region Plan:

- Objective 7: Communities are healthy, resilient and socially connected

- Objective 13: Environmental Heritage is identified, conserved and enhanced
- Objective 28: Scenic and cultural landscapes are protected
- Objective 31: Public Open Space is accessible, protected and enhanced

*Q4. Is the planning proposal consistent with a council's local Strategy or other local strategic plans?*

The Planning Proposal is consistent with the Northern Beaches Local Strategic Planning Statement (LSPS). The additional height restriction will ensure that views to Palm Beach from the Bible Garden are preserved and there is minimal impact on the heritage significance of the Bible Garden.

The Planning Proposal is most consistent with the following priorities of the LSPS:

- Priority 6 - High quality open space for recreation
- Priority 11 - Community facilities and services that meet the changing community needs
- Priority 18 - Protected, conserve and celebrated heritage.
- Priority 29 - A thriving, sustainable tourism economy

*Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?*

The Planning Proposal is not inconsistent with the State Environmental Planning Policies (SEPP) as listed in the Table below:

<b>SEPPs (as at March 2022)</b>			
<b>Focus Areas</b>	<b>State Environmental Planning Proposal</b>	<b>Applicable</b>	<b>Is the Planning Proposal consistent with SEPP?</b>
Housing	Housing SEPP	N/A	N/A
Transport and Infrastructure	Transport and Infrastructure SEPP	N/A	N/A
Primary Production	Primary Production SEPP	N/A	N/A
Biodiversity and Conservation	Biodiversity and Conservation SEPP	YES	YES
Resilience and Hazards	Resilience and Hazards SEPP	YES	YES
Industry and Employment	Industry and Employment SEPP	N/A	N/A
Resources and Energy	Resources and Energy SEPP	N/A	N/A
Planning Systems	Design Quality of Residential Apartment Development	N/A	N/A
	Precinct SEPPs		
	<ul style="list-style-type: none"> <li>• Eastern Harbour City SEPP</li> </ul>	N/A	N/A

	<ul style="list-style-type: none"> <li>Western Parkland City SEPP</li> </ul>	N/A	N/A
	<ul style="list-style-type: none"> <li>Central River City SEPP</li> </ul>	N/A	N/A
	<ul style="list-style-type: none"> <li>Regional SEPP</li> </ul>	N/A	N/A
	Codes SEPP	N/A	N/A
No.65	Design Quality of Residential Apartment Development	N/A	N/A
	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	YES	YES
	(State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	YES	YES

*Q6. Is the Planning Proposal Consistent with Applicable Ministerial Directions (Section 9.1 Directions)?*

Apart from the Ministerial Direction 1.4 Site Specific Provisions, the Planning Proposal is consistent with the applicable Local Ministerial Directions. Direction 1.4 Site Specific Provisions, reads as follows:

- (1) *A planning proposal that will amend another environmental planning instrument in order to allow particular development to be carried out must either:*
- (a) *allow that land use to be carried out in the zone the land is situated on, or*
  - (b) *rezone the site to an existing zone already in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or*
  - (c) *allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.*

*A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) that the provisions of the planning proposal that are inconsistent are of minor significance.*

The Planning Proposal seeks to allow an additional permitted use of 'dwelling house' on that part of the land zoned RE1 Public Recreation and add an additional height restriction to the land.

The proposed amendments are consistent with the Heads of Agreement and the inconsistency with Direction 1.4 Site Specific Provisions is of minor significance and limited to this property.

### **Site-Specific Merit**

#### Section C- Environmental, Social and Economic Impact



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

6 Mitchell Road Palm Beach is identified on the Pittwater LEP 2014 Biodiversity Map - Sheet BIO\_015, and as a result calls up Clause 7.6 Biodiversity under the LEP.

A Flora and Fauna Assessment by EcoLogical Australia (May 2022) and an Arborist Report by Arbosaw (June 2022) accompanied the Planning Proposal application.

The Flora and Fauna Assessment undertook a threatened species 'test of significance' assessment incorporating the following:

- On ground surveys on 18 August and 3 September 2019, and 14 May 2022.
- Bionet searches for flora, fauna and endangered populations to identify if there were previous records of threatened species occurring within the local area using a 10km radius around the site.
- A review of the Planning Proposal and the proposed development it seeks to enable was evaluated for potential environmental impacts.

No threatened plant or animal species were found on and within immediate vicinity of this property.

Council's Senior Environment Officer - Biodiversity advised as follows:

*The Biodiversity Planning team do not raise any other issues or concerns in relation to the current Planning Proposal.*

*I note the updated Flora & Fauna Assessment which has assessed the biodiversity values of the portion of the site zoned RE1 Public Recreation, and generally agree with the report findings, namely that a significant impact to the environment is unlikely and the NSW biodiversity Offset Scheme is not triggered. A range of suitable management and mitigation measures are also detailed within the Report that could be applied to any future development of the site.*

The Planning Proposed is not likely to adversely impact on critical habitat, threatened species, populations, or ecological communities.

The Arborist Report concluded that the Planning Proposal is suitable from a tree impact perspective provided the recommendations are implemented during the approval of any future Development Application.

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

### Geotechnical

The subject site is identified as being a Geotechnical Hazard H1 on the Geotechnical Hazard Map. A Geotechnical Report prepared by Davies Geotechnical Consulting Engineers (July 2022) accompanied the Planning Proposal application.

This report concludes that the geotechnical conditions of the site will not affect consideration of the Planning Proposal.

### Heritage

A Heritage report by Weir Phillips (21 July 2022) accompanied the Planning Proposal application. The report concluded that the proposed additional permitted use within the small portion of land zoned RE1-Public Recreation will have no impact on the significance of the adjoining heritage item (Bible Garden) for the following reasons:

- *The proposed additional permitted use is in character with the original concept scheme envisaged when the site was subdivided and sold as part of the Heads of Agreement between Pittwater Council and the Trustees of the Bible Garden.*
- *The steep topography of the northern portion of the subject site is unusable by patrons of the Bible Garden. An additional permitted use in this portion of the site allows for a construction of a dwelling with a flat top structure (potential garage).*
- *Additional permitted use within the RE1 zoning will not result in a built form that when viewed from the most significant points at Mitchell Road and from within the Bible Gardens the dwelling will be concealed by the existing topography. There will be no visual impact from this perspective.*
- *The character of the Bible Garden, as a site enjoyed for quiet contemplation and appreciation of the magnificent outlook towards Palm Beach will be unaffected by the proposed additional permitted use within the RE1 zoning.*
- *The proposed additional permitted use within the RE1 zoning is unlikely to reduce the user's ability to interpret the cultural landscape of the Bible Garden within its context.*
- *From Palm Beach and surrounds, a new dwelling built as a result of the additional permitted use in RE1 would be visible as one of a number of residential developments within the escarpment behind Palm Beach as a result of the proposed additional permitted use. Any new dwelling constructed would be visible in the landscape from these viewpoints but will have a lessened visual impact due to the scale and constrained nature of the site in comparison to other nearby residential developments. The visual impact from this perspective is considered to be minor.*
- *No other heritage items in the vicinity will be affected by future built form constructed as part of the planning proposal owing to the separation of these items from the subject site.*

Council's Heritage Officer concurs with the report's conclusions and supports the Planning Proposal from a heritage perspective as it will:

- Enable a dwelling to be constructed as envisaged by the Heads of Agreement between Council and the Bible Garden Trust; and
- Not impact upon the heritage significance of The Bible Garden; and
- Not impact upon important significant views from the garden out to Pittwater, Palm Beach and beyond.

### View Loss

The proposal provided a detailed account of a study conducted in consultation with the Committee of the Friends of the Palm Beach Bible Garden. Height poles were installed to determine the potential impact of any future development on the RE1 zoned land. The study concluded that no portion of future residential development on this land will impede on existing views from the Bible Garden based on topography of the site and the existing covenants over the land.

The Planning Proposal seeks to add a height restriction for any future residential development on 6 Mitchell Road. This is in addition to the existing height provisions in the Pittwater LEP 2014 and will ensure that views from the Bible Garden are preserved and consistent with the signed Heads of Agreement.

*Q9. Has the Planning Proposal adequately addressed any social and economic effects?*

The Planning Proposal will facilitate residential development on the whole of 6 Mitchell Road, consistent with the signed Heads of Agreement.

The proposal will not result in additional dwellings being permitted on the land. It will facilitate a dwelling house, and development ancillary to a dwelling (e.g., a garage), to be permissible on that part of the land zoned RE1.

Limiting the height of future residential development on the land ensures no obstruction of views from the Bible Garden. This allows the land to be used and enjoyed by the owners and the community.

#### Section D - State and Commonwealth Interests

*Q10. Is there adequate public infrastructure for the Planning Proposal?*

6 Mitchell Road is an existing serviced property within an established neighborhood. The Planning Proposal will not result in additional dwellings being permitted on the land and will not require additional public infrastructure.

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

If the Planning Proposal progresses and receives a Gateway Determination, the following public authorities will be consulted:

- Sydney Water
- Ausgrid, and
- NSW Office of Environment and Heritage.

#### **CONSULTATION**

The Planning Proposal submitted by the proponent was initially placed on non-statutory public exhibition for 14 days, from 28 September to 13 October 2022, in accordance with the Northern Beaches Community Participation Plan. Following a request from a submitter, the public exhibition period was extended to 21 October 2022. The public exhibition comprised:

- Notification letters to adjoining landowners and occupiers
- Email to community members who had registered their interest in the project
- An updated Council 'Your Say' page with relevant information; and
- Inclusion in Council's Community News email.

Six (6) submissions were received. The issues raised in submissions included:

- Request for the garage to be lowered
- Vegetation that will feature on garage roof should be at maximum development height
- New structure will obscure view
- Unlawful public exhibition and Planning Proposal
- The proposed amendments are unclear
- Extension of public exhibition
- Planning Proposal is unlawful.

Issues relating to landscaping and the potential design of the garage are not relevant to the Planning Proposal and will be considered in any future Development Application. The Planning Proposal has been lawfully prepared and considered in accordance with all statutory requirements.

A summary of the submissions and responses to the issues raised is in Attachment 3. These issues do not warrant the rejection of the Planning Proposal.

### **Local Planning Panel**

On 14 December 2022, an assessment of the Planning Proposal was presented to the Northern Beaches Local Planning Panel. The proceedings in Brief from the meeting included the following comments:

*At the public meeting Counsel for an objector submitted that: (a) there were two planning proposals before the Panel, one by The Planning Hub on behalf of the applicant and the other by Council as set out in Attachment 2 to the Council assessment report; (b) that the former was beyond power under the Environmental Planning and Assessment Act 1979 but that the latter was within power and the Panel could advise in respect of the latter; (c) that the Panel should reject the former and advise Council only in respect of the latter. The Panel considers that there is only one planning proposal before it, namely the Council's planning proposal set out in Attachment 2 to the Council assessment report. The Panel will advise Council only in respect of that planning proposal.*

Subsequently, the Planning Panel recommended:

*That the Northern Beaches Local Planning Panel recommends that Council support the planning proposal set out in Attachment 2 to the Council assessment report to permit a dwelling house limited to a building height of RL 74.5 AHD as an additional permitted use on 6 Mitchell Road Palm Beach, for the reasons presented in the assessment report, subject to the following:*

*The Panel suggests that the additional clauses in Schedule 1 of the Pittwater Local Environment Plan should read to the following effect:*

#### ***Use of certain land at 6 Mitchell Road, Palm Beach***

- (1) This clause applies to land at 6 Mitchell Road, Palm Beach, being Lot 1. DP1086858 and identified as on the Additional Permitted Uses Map.*
- (2) Development on the part of 6 Mitchell Road, Palm Beach zoned RE1 for the purposes of a dwelling house, not exceeding RL 74.5AHD in height, is permitted with development consent.*
- (3) The height limit restriction of RL 74.5AHD also applies to the remainder of 6 Mitchell Road, Palm Beach, currently zoned C4.*
- (4) Subject to the restriction imposed by clause 3, the remainder of 6 Mitchell Road, Palm Beach continues to be subject to the development height controls in clause 4.3 of the Pittwater Local Environmental Plan.*

*Vote: 4/0*

The Planning Proposal has been amended in line with the suggestion provided by the Local Planning Panel.

The minutes of the Local Planning Panel meeting are in Attachment 4.

### **External Probity Adviser**

On 24 October 2022, Council engaged the services of external probity adviser Charles Kendall Australia to oversee Council's assessment of the Planning Proposal. Probity advice was sought to manage any potential or perceived conflict of interest arising from the assessment of a Planning Proposal on land adjacent to the Council-owned Bible Gardens.

Charles Kendall Australia has undertaken an audit of the assessment process. The audit report is provided in Attachment 5. The audit report concluded that there were no probity concerns with the assessment of the Planning Proposal.

### **TIMING**

It is anticipated that the timeframe for completion of the Planning Proposal is approximately 12-18 months from the date of Council's approval.

Following the issue of a Gateway Determination, Council will be required to formally exhibit the Planning Proposal for 28 days. The outcomes of this exhibition will be reported back to Council for consideration.

### **LINK TO STRATEGY**

The Planning Proposal relates to the following goals of the Northern Beaches Community Strategic Plan 2040 outcome of:

- Community and belonging - Goal 7 Our diverse community is supported to participate in their chosen cultural life
- Community and belonging - Goal 8 Our community feels safe and supported
- Community and belonging - Goal 9 Our community is inclusive and connected
- Housing, places and spaces - Goal 11 Our local centres are vibrant and healthy, catering for diverse economic and social needs
- Partnership and participation - Goal 22 Our Council builds and maintains strong partnerships and advocates effectively on behalf of the community

### **FINANCIAL CONSIDERATIONS**

The Planning Proposal is a proponent-initiated application. The proponent has paid the assessment fees stipulated in Council's Fees and Charges 2022/23.

The recommendations of this report pose no financial impact on Council.

### **SOCIAL CONSIDERATIONS**

The proposal seeks to rectify an anomaly unique to this site and is consistent with the signed Heads of Agreement.

The Planning Proposal will maintain the existing views from the Bible Garden and is not anticipated to have any adverse social impacts.

### **ENVIRONMENTAL CONSIDERATIONS**

An assessment of the Planning Proposal has determined that it is unlikely to have any adverse environmental impacts on the subject site or surrounding land.

## **GOVERNANCE AND RISK CONSIDERATIONS**

The Planning Proposal has been assessed in accordance with all statutory requirements.

Independent probity advice was sought to manage any potential or perceived conflict of interest arising from the assessment of the Planning Proposal. The audit report concluded that there were no probity concerns with the assessment of the Planning Proposal.

## 13.0 TRANSPORT AND ASSETS DIVISION REPORTS

<b>ITEM 13.1</b>	<b>RESPONSE TO NOTICE OF MOTION NO 36/2022 - POTHoles ON LOCAL ROADS</b>
<b>REPORTING MANAGER</b>	<b>EXECUTIVE MANAGER TRANSPORT &amp; CIVIL INFRASTRUCTURE</b>
<b>TRIM FILE REF</b>	<b>2023/045030</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

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### BRIEF REPORT

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#### PURPOSE

To provide a response to Council's Notice of Motion No 36/2022 - Potholes on Local Roads adopted at its ordinary Council meeting on 22 November 2022.

#### REPORT

At its ordinary meeting on 22 November 2022 Council resolved (377/22):

*That:*

- 1. The Chief Executive Officer report back to Council's February 2023 meeting on the current number of potholes on local roads and number of local roads whose overall surfaces have been badly damaged by rain this year, with an estimate of how much it would cost to repair current individual potholes, and to resurface roads whose overall surfaces have deteriorated due to rain.*
- 2. The Chief Executive Officer report on how much funding has been spent on (a) fixing potholes and (b) resurfacing roads this financial year and how much remains in the budget to fix current and future potholes and road surfaces.*
- 3. Staff identify and report back to Council's February 2023 meeting on funding included in this year's budget from current capital works projects that have failed to find suitable tenders that could be used to fix potholes and resurfacing roads badly damaged by this year's rain.*
- 4. If no such funding is available, identify money from other projects not impacted by this year's weather that could be spent on road repairs and resurfacing.*
- 5. Council lobby the NSW government to provide more funding for fixing potholes on local roads and resurfacing local roads badly damaged by this year's rain.*
- 6. Council calls on the NSW Government to promptly repair state roads in the Northern Beaches Local Government Area.*

In response to Item 1:

Between July 2022 and January 2023:

- Council has repaired 3,346 potholes in the above period
- 1,114 individual local roads have been identified where pavements have been damaged as a result of the recent periods of wet weather

- \$1.9 million has been spent on pothole repairs and road patching, with some \$3 million additional heavy patching programmed for the remainder of this year and around \$7 million proposed for next financial year (some from normal allocations and around \$6 million from the recent State Government Grant for Local and Regional Road repairs)
- \$25-30 million is the estimated cost to fully resurface roads whose surfaces have deteriorated due to rain.

In response to Item 2:

Council has spent the following amounts this financial year

- (a) As noted above \$1.9 million on fixing potholes and on heavy patches so far this year with around \$3 million currently in hand and being scoped as a result of State Government grant
- (b) \$5.5 million completed or currently in progress on resurfacing roads this financial year (to January 2023). There remains approximately \$2.6 million from the \$8.1 million Road Resheeting Capital Works budget to complete the current program of works. These works have been scoped and are in the process of having contractors engaged to deliver the works program.

In response to Item 3 and 4:

Council is committed to the delivery of the current adopted capital works program. Should our procurement processes fail to find suitable tenders on the first occasion, the procurement strategy is reviewed and addressed depending on the individual situation. It is considered that there are no capital works projects in the current program, where funding should be diverted to repairing potholes and resurfacing roads at this time. It is noted that much of our capital works program funding is either tied to grant funding, restricted funds (e.g., s7.11 & s7.12 funds), or required to meet other asset renewal ratios.

The recent State Government announcement of \$500 million for Council's to repair Regional and Local Roads would be best suited funding the road pavement repairs. Council has been advised that the allocation to Northern Beaches Council is \$9.1 million and will need to be completed by February 2024. Actions have already commenced to undertake these works.

In response to Item 5 & 6:

Council has written to the Hon. Natalie Ward, MLC, Minister for Metropolitan Roads and Minister for Women's Safety and the Prevention of Domestic and Sexual Violence welcoming funding of the \$500 million Regional and Local Roads Repair Program and requesting further action on the State Road network in the Northern Beaches Local Government area.

The funding boost to improve our Local and Regional Road network is welcomed and Council has requested consideration be given to a general increase in road funding to keep our road network safe, efficient, and reliable now and into the future.

**LINK TO COUNCIL STRATEGY**

This report relates to the Community Strategic Plan Outcome of:

Transport, technology and connectivity - Goal 17 Our community can safely and efficiently travel within and beyond the Northern Beaches

**FINANCIAL CONSIDERATIONS**

The recommendations of this report pose no financial impact on Council.



**ENVIRONMENTAL CONSIDERATIONS**

There are no environmental impacts associated with the recommendations of this report.

**SOCIAL CONSIDERATIONS**

There are no social considerations associated with the recommendations of this report.

**GOVERNANCE AND RISK CONSIDERATIONS**

There are no risk or governance issues associated with the recommendation of this report.

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**RECOMMENDATION OF DIRECTOR TRANSPORT AND ASSETS**

That Council note the information provided in this report.

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## 15.0 NOTICES OF MOTION

<b>ITEM 15.1</b>	<b>NOTICE OF MOTION NO 1/2023 - PARKING RESTRICTIONS REQUEST, PITTWATER ROAD, COLLAROY</b>
<b>TRIM FILE REF</b>	<b>2023/082444</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

Submitted by: Councillor Vincent De Luca OAM

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### MOTION

That Council formally write to the NSW Minister for Roads and the Shadow Minister for Roads requesting the implementation of hourly parking restrictions on Pittwater Road from the intersection of Anzac Parade and Pittwater Road to Hadleigh Avenue, Collaroy to prevent cars for sale taking up much needed residents' and beach user parking and posing safety risks with potential purchasers walking on Pittwater Road to inspect vehicles.

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<b>ITEM 15.2</b>	<b>NOTICE OF MOTION NO 2/2023 - BEACH SAFETY SIGNS</b>
<b>TRIM FILE REF</b>	<b>2023/090901</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

Submitted by: Councillor Michael Gencher, Councillor Rory Amon

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## MOTION

That:

1. In an ongoing effort to reduce the drowning toll, Council work with local Surf Life Saving Clubs, Surf Life Saving Northern Beaches, and Surf Life Saving (SLS) NSW to identify and investigate and participate in available innovative projects and programs that specifically target high risk locations/user groups and to further improve public awareness.
2. Council consider the installation of improved, prominent beach safety signs as permanent installations at beach entrances, and the general proximity of coastal areas – to complement the temporary warning signage, services and information currently provided by local Surf Life Saving Clubs and coastal Lifeguard services.
3. Council consider the installation of improved permanent and prominent beach safety signage at identified blackspot locations throughout the Northern Beaches. A blackspot location is one that, historically, has had a high number of coastal safety related incidents including preventions, rescues, emergency call outs and drownings – or being an unpatrolled beach – or area of beach.
4. Council consider the production and installation of permanent and prominent beach safety signage and translations of key beach safety messages in multiple languages - as is currently standard practice for several Councils.
5. An agreed action plan be prepared, and Council briefed by July 2023 – with the above actions to be funded from relevant operational budgets (if adopted), and if adopted, to be ready for implementation by September 2023 – to coincide with the start of summer and the SLSA Patrol Season.

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## BACKGROUND FROM COUNCILLOR MICHAEL GENCHER AND COUNCILLOR RORY AMON

As at the writing of this background – Thursday, 9 February 2023, there have been fifty-six drowning deaths in Coastal and Inland Waterways in NSW this summer. Beach safety signs are designed to send clear messages and warnings.

Surf Life Saving (SLS) NSW has indicated that coastal drownings are up 30 per cent on the 10-year average – with a 13 per cent increase on last year.

This summer the drowning toll is the highest on record – including several tragic drownings on our Northern Beaches.

According to the National Coastal Safety Report 2022, 939 coastal drowning fatalities were recorded from 2012-2022, almost half of which were overseas-born beachgoers. However, the 939 fatalities were only of people whose birth continent was known, so the total number of drownings is higher.

Current research indicates that 50 per cent of beach goers born overseas and approximately 40 per cent of locals rarely see, or never read beach safety signage at beaches they are not familiar with.

Approximately half of the overseas-born beachgoers had no understanding of some beach safety terms such as, rip, bank, high surf, shore dump, or bluebottles.

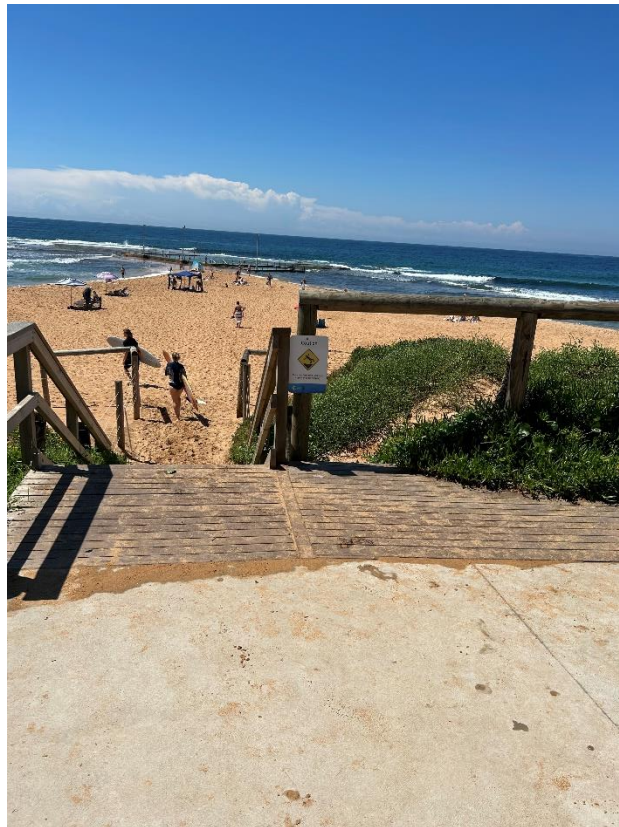
Not seeing, not reading, and not understanding the signs, could, and does have deadly consequences.

Research indicates that many people are also unsure about what the Australian beach flags mean - while they represent 'always swim between the flags', more than 30 per cent of the overseas visitors and residents believe that beach flags mean that only people 'perceived to be good swimmers' were allowed to be between the flags.

Another common flag instruction – 'No flags = no swim' – is also confusing, with research showing that this instruction is perceived as – 'they may not swim, but they may play, walk, and stand/wade in the water'.

Currently, local Surf Life Saving Clubs are having to deal with an overwhelming number of preventions and rescues, due to the lack of signage and information. The local surf clubs are having to hire (at their own expense) variable message sign (VMS) boards with safety and information messaging to protect beachgoers.





<b>ITEM 15.3</b>	<b>NOTICE OF MOTION NO 3/2023 - CASHLESS GAMING CARD REFORM</b>
<b>TRIM FILE REF</b>	<b>2023/101013</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

Submitted by: Councillor Rory Amon

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## **MOTION**

That Council:

1. Supports, in principle, the NSW Government-announced cashless gaming card policy.
2. Write to the NSW Premier and the Leader of the Opposition informing each of Council's position.

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## **BACKGROUND FROM COUNCILLOR RORY AMON**

Problem gambling is a scourge on society. Council can play a role in advocating for reform in this space. In 2017, this council resolved in favour of calling on the NSW Government to put an immediate cap on poker machine licences in the Northern Beaches LGA.

The NSW Government has announced a policy to make every poker machine cashless by 31 December 2028. This will help combat and reduce problem gambling and money laundering. Full details of the policy can be read on [here \(https://www.nsw.gov.au/media-releases/pokies-to-be-cashless-2028-under-historic-changes#:~:text=The%20NSW%20Liberal%20and%20Nationals,laundrying%20in%20electronic%20gaming%20machines\)](https://www.nsw.gov.au/media-releases/pokies-to-be-cashless-2028-under-historic-changes#:~:text=The%20NSW%20Liberal%20and%20Nationals,laundrying%20in%20electronic%20gaming%20machines).

The policy announcement has been widely supported, including by the Alliance for Gambling Reform and Independent MPs, Alex Greenwich and Greg Piper (see [here - https://www.smh.com.au/national/nsw/perrottet-on-a-winner-as-advocates-and-mps-praise-pokies-reform-20230206-p5cicb.html](https://www.smh.com.au/national/nsw/perrottet-on-a-winner-as-advocates-and-mps-praise-pokies-reform-20230206-p5cicb.html)).

<b>ITEM 15.4</b>	<b>NOTICE OF MOTION NO 6/2023 - BREWARRINA SISTER CITY YOUTH PROGRAM</b>
<b>TRIM FILE REF</b>	<b>2023/101638</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

Submitted by: Councillor Sue Heins and Councillor Ruth Robins

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## **MOTION**

That Council:

1. Investigate future options of supporting our Sister City relationship with Brewarrina in supporting youth from both Brewarrina and the Northern Beaches LGA.
2. Staff prepare a report to come back within 3 months outlining future possible options to continue this support, including the financial cost for consideration in the 2023/24 Budget.

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## **BACKGROUND FROM COUNCILLOR SUE HEINS AND COUNCILLOR RUTH ROBINS**

Since COVID-19 our relationship with assisting the youth of our sister city, Brewarrina and sending our youth to Brewarrina appears to have halted.

Historically the Bush to Beach program supported primary aged children and Brewarrina Council had a system that brought high school achievers to the Northern Beaches and Northern Beaches Council sent local high school achievers to Brewarrina and surrounds.

Bush to Beach has a vision to connect outback regional areas in need with local surf lifesaving clubs as is the relationship with South Narrabeen SLSC and Brewarrina.

There appears to be an opportunity to reengage and for Councillors to assess which way forward in assisting to reengage for the benefit of our youth and assist their development.

**ITEM 15.5** **NOTICE OF MOTION NO 7/2023 - URGENT REQUEST FOR A SAFETY AUDIT OF ELECTRIC BIKE, ELECTRIC SCOOTER AND OTHER BIKE USAGE ON NORTHERN BEACHES SHARED PATHS, BIKE PATHS AND FOOTPATHS**

**TRIM FILE REF** 2023/113922  
**ATTACHMENTS** NIL

Submitted by: Councillor David Walton and Councillor Sprott

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**MOTION**

That:

1. The Northern Beaches Council Local Traffic Committee, in partnership with the Northern Beaches Police Area Command, conduct an urgent safety audit of electric bike, electric scooter and other bike usage, on Northern Beaches shared paths, bike paths, and footpaths. That the safety audit include consideration of, but not limited to:
  - A. Speeding;
  - B. Shared path design models and factors;
  - C. Path separation versus segregation;
  - D. Advisory speed signage;
  - E. Education and communication campaign on electric bike, scooter and other bike legislative responsibilities; and
  - F. Regulatory factors, including Council Rangers and Police operations to target non-compliance of road rules applicable to electric bikes, scooters and other bikes.
2. The outcomes of the safety audit be reported back to Council as a matter of urgency, with recommendations to mitigate the increasing risks associated with these safety issues.

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**BACKGROUND FROM COUNCILLOR DAVID WALTON AND COUNCILLOR SPROTT**

The Northern Beaches shared paths are an area open to the public that is designated for the use of both bicycle riders and pedestrians. The Northern Beaches is seeing a significant increase in the use of electric bikes, scooters and other bikes on shared bike paths with increased speeds, that a reasonable person would consider an increasing risk to pedestrian safety.

An increasing number of residents are contacting their elected representatives to address this increasing safety concern.

When riding on a shared path, the road rules require electric bicycle riders and other bike and scooter riders to:

- Keep to the left (unless it is impractical to do so)
- Give way to pedestrians including wheeled recreational devices/toys. You should always slow down, stopping if necessary to avoid a collision
- Keep to the left of any oncoming bicycle rider.



In line with the Centre for Road Safety guidance, to make paths safer for everyone it is recommended that bike riders:

- Provide pedestrians with a metre of space when passing
- Use their bell to warn others when you are approaching
- If there is room, moving off the path to the left if you wish to stop riding
- Be careful around young children and dogs, as they are often unpredictable in their movements, and older pedestrians who may be more vulnerable
- Travel at a safe speed so you can stop within a safe distance of pedestrians on the path.

<b>ITEM 15.6</b>	<b>NOTICE OF MOTION NO 8/2023 - CONSERVATION ZONES</b>
<b>TRIM FILE REF</b>	<b>2023/119554</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

Submitted by: Councillor Miranda Korzy

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## MOTION

That Northern Beaches Council adopt the following principles with regard to reviewing the Local Environment Plans of Pittwater, Warringah and Manly:

1. Acknowledge the overall purpose of the LEP revision must be to recognise the role of Northern Beaches Council in protecting the unique environment of Sydney's northern beaches and to adopt the highest standards of environmental protection in the existing LEPs and not to adopt a lowest common denominator approach to environmental protection.
2. Acknowledge that if adopting a single LEP results in reduced environmental protections then it would be better to retain the existing LEPs, apart from the Warringah deferred lands LEP, as current and valid legal instruments.
3. Retain all Conservation Zones from the Pittwater Local Environment Plan 2014 (LEP) in the Northern Beaches Council's single Local Environment Plan, now under development.
4. Include any properties in areas with recognised biodiversity, tree canopy, biodiversity corridors, as well as hazards including bushfire, flood, coastal erosion, and landslip in Conservation Zones.
5. Retain all controls on those Conservation Zones as provided in the Pittwater Development Control Plan in the new DCP, moving those that are resulting in development outside the clear intent of the Pittwater DCP into the new LEP.
6. Include new controls in the LEP outlining Foreshore Scenic Protection areas and limiting excavations, removal or destruction of significant rocks and cliffs, as well as removal of building spoil from developments in Conservation Zones.
7. Report back to council on heritage items proposed for the new LEP, ensuring all that exist in the current Pittwater LEP are included, and that those nominated at the time of council amalgamations in 2016 are considered.
8. If these actions cannot be achieved under a single, harmonised Northern Beaches LEP, exclude the former Pittwater Council area from that LEP and update the current Pittwater LEP, as outlined in Points 4, 5, 6 and 7.
9. Table a report to council on the Outcome of the Public Exhibition of the Draft Conservation Zones Review, including all submissions received with redactions as appropriate, before finalising and exhibiting the single Draft Northern Beaches Council Local Environment Plan.

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## BACKGROUND FROM COUNCILLOR MIRANDA KORZY

The Northern Beaches community and councillors were assured by council staff that no environmental values would be sacrificed from any former council areas in the harmonisation of the

Pittwater, Warringah and Manly Local Environment Plans (LEPs) and Development Control Plans (DCPs).

However, the Draft Conservation Zones Review proposes removing 3,613 properties from the former Pittwater Local Government Area's Conservation Zones and making them Residential Zones, with their controls undefined. This contrasts with the loss of only one property with a Conservation Zoning from the former Warringah Local Government Area (LGA). This scenario is in fact not harmonising zones across the new council area but aligning them with the former Warringah zonings.

Rob Stokes had also tried to reassure Pittwater residents about protection of its environment after the NSW government passed the Environmental Assessment and Planning Bill, in December 2017. In a letter to the Avalon Preservation Association of December 5, 2017, Mr. Stokes discussed the introduction of Local Strategic Planning Statements. In it he said:

"The development of these statements will see councils and communities formulate the forward vision for land use in the local area - capturing and respecting the local characteristics that need to be preserved and articulating what local residents want in the future. This will include where and how any changes should occur.

These statements will be formally recognised in legislation and reflected in Councils' Local Environment Plans and development controls. Councils will be able to tailor the statements to specify land use priorities on a ward by ward basis."

However, the previous council chose not to utilise this process, opting instead for an LGA-wide LSPS. A ward based LSPS would have revealed the special characteristics of Pittwater, and all other wards and the differences between them. We can see the result of this in the Draft Conservation Zones Review, in which consultants have failed to recognise the importance of, for example, wildlife corridors and tree canopy. This has a major Impact in Pittwater - but also across the entire LGA.

Further, the previous council made the decision to adopt one LEP across the LGA without any explicit discussion about the reasons for this or necessity to do so. At the November 27, 2018 meeting, councillors voted to accept to accept the Local Environment Plan Review and one LSPS.

However, the report from staff did not mention the fact that there is no legislation that requires one LEP or any ministerial directive to that effect either. This issue was never placed before councillors or the community, and we were told that the state government required us to introduce one LEP.

If we are to have one LEP, it should aim for the highest standards of environmental protection possible, as was reflected in the former Pittwater LEP and DCP. Northern Beaches Council has a special responsibility now as the custodian of Pittwater's precious bushland, beaches and villages, and the community expects this to be demonstrated in the way planning for Pittwater is carried out. The enormous response to the Draft Conservation Zones Review from concerned Pittwater residents, who provided 60 per cent of the 935 submissions, bears this out.

This motion aims to do everything possible to retain and enhance the environment of the former Pittwater LGA.

## CHIEF EXECUTIVE OFFICER REPORT

*In accordance with clause 4.14 of Council's Code of Meeting Practice I offer the following report on this matter to assist Council in the deliberation of this motion:*

I cannot recommend this motion. It is premature for the following reasons:

Since early 2019 Council has been collaborating with our community to bring together our current local planning controls to create one new planning framework that will guide and manage future development in the Northern Beaches. We started this process with the release in 2019 of the Local Strategic Planning Statement - Towards 2040 outlining the future visions for the Northern Beaches and our commitment to a sustainable future. The preparation of the Local Housing Strategy and the release of the LEP/DCP Discussion Paper followed in 2020 and 2021.

In addition to these strategic policy documents, Council has prepared a range of technical studies to inform the preparation of the new LEP and DCP, including the Conservation Zones Review.

The Conservation Zones Review was exhibited for 3 months from 2 September 2022 to 2 December 2022 following the unanimous decision of Council to endorse the Conservation Zones Review for public exhibition. The main aim of the public exhibition was to seek feedback from the community on a draft methodology for the use of Conservation Zones across the Northern Beaches LGA before Council endorses a final methodology for the application of Conservation Zones in the draft LEP, anticipated in mid 2023.

It is on the public record (Item 12.1- Council meeting 23 August 2022) that the Conservation Zone review was prepared for the following reasons:

- To align with the vision of the Northern Beaches community who place a high value on important environmental matters.
- To provide strategic and statutory protection to lands with important environment and hazard characteristics, rather than relying on individual assessment of development applications.
- To meet commitments made in Towards 2040, which include principles to:
  - Avoid intensification of development, inappropriate development and incompatible land uses in areas exposed to natural hazards.
  - Ensure development is avoided in high-risk areas that are difficult to evacuate or would be occupied by at risk members of the community (including schools, hospitals, and nursing homes).
- To provide a consistent and fair approach to the application of conservation zones which currently permit markedly different land uses across the four LEPs and were created using different environmental criteria.
- To identify and implement best practice planning controls based on research and a strong evidence base, including several technical studies which identify areas with high conservation values more accurately and consistently across the LGA.
- To meet commitments to consult with residents in the "deferred lands" under Warringah LEP 2000 – Oxford Falls Valley and Belrose North – because of the non-standard nature of that LEP and given concerns about previous Planning Proposals or the area.

935 submissions were received in response to the public exhibition of the Conservation Zones Review and the Technical Studies, and all submissions have been reviewed. A copy of the

submissions will be available on Council's website by the end of February 2023, along with a Consultation Report which summarises key issues raised in submissions and Council's response.

Following the review of submissions by Council and its consultants, changes to the methodology will be made to address community concerns. In the urban areas, one possible change being considered is the inclusion of foreshore scenic protection areas as a criterion with medium environmental value. This change alone will see 15,313 properties across the Northern Beaches proposed to be zoned C3 and C4, which is 5,003 more than currently exists under the 4 existing LEPS, and an increase in 827 properties within the Pittwater LEP area. Significantly more than the exhibited version of the Conservation Zones Review.

It is also on the public record, that the application of conservation zones is not the only means by which we will protect the environment. Council's LEP/DCP Discussion Paper and report to Council on the Conservation Zones Review outlined several measures Council is proposing in the new LEP and DCP in addition to land use zoning, that will protect the environment and strengthen the current controls in the 4 existing LEPS and DCPs.

These include: Improved and updated provisions for biodiversity, geotechnical requirements, coastal and estuarine hazards, heritage conservation areas, stormwater management, waterways, wetlands, and riparian lands, environmentally sensitive areas, and foreshore scenic protection. Other measures (not currently included in any of our Standard Instrument LEPS) but which we are investigating for inclusion are matters such as: Tree Canopy, including deep soil requirements and tree replenishment rates; Landscape Controls, Floor Space Ratios Controls which will aim to reduce building bulk (currently only applies to Manly LEP); and excavation controls.

<b>ITEM 15.7</b>	<b>NOTICE OF MOTION NO 4/2023 - DUFFYS FOREST COMMUNITY BRIDLE TRAIL</b>
<b>TRIM FILE REF</b>	<b>2023/101041</b>
<b>ATTACHMENTS</b>	<b>1 <a href="#">↓</a>Stokes - Brownlee - OBO Duffys Forest Residents Association</b> <b>2 <a href="#">↓</a>NBCS Letter of Support to Council - Duffys Forest and Terrey Hills Community Bridle Trail</b>

Submitted by: Councillor Rory Amon

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## MOTION

That:

1. In consultation with the Duffys Forest Residents Association and Terrey Hills Progress Association, Council Officers prepare a draft “Community Bridle Trail Action Plan” detailing the steps which need to be taken in the short, medium and long term, to repair and enhance the Community Bridle Trail.
2. A report be brought back to Council in 3 months providing a draft Action Plan and next steps for Council’s consideration.

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## BACKGROUND FROM COUNCILLOR RORY AMON

The Community Bridle Trail through Terrey Hills and Duffys Forest is a unique feature of this wonderful area. For those not familiar, the Community Bridle Trail can be described as a naturally formed trail through the Terrey Hills and Duffys Forest area which provides amenity for walkers, runners, bike riders and horse riders.

Unfortunately, over time, the Trail has degraded and become unsafe for users. The purpose of this motion is to establish a process by which the Trail can be repaired and enhanced.

On 25 January 2023, the Duffys Forest Residents Association provided Council with correspondence detailing steps which needed to be taken in relation to the Bridle Trail. A copy of that correspondence will be provided to Councillors. It is noted that both the local Member of Parliament, the Hon. Rob Stokes MP, and Northern Beaches Christian School support the residents’ efforts on this matter.







<b>ITEM 15.8</b>	<b>NOTICE OF MOTION NO 5/2023 - DAYDREAM STREET, WARRIEWOOD</b>
<b>TRIM FILE REF</b>	<b>2023/101065</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

Submitted by: Councillor Rory Amon

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## **MOTION**

That Council write to Transport for NSW seeking advice as to the detailed reasons why Daydream Street, Warriewood, is proposed to remain closed onto Mona Vale Road moving forward.

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## **BACKGROUND FROM COUNCILLOR RORY AMON**

Daydream Street, Warriewood, intersects with Mona Vale Road, but has been closed off.

Residents have been attempting to understand why the road is proposed to remain closed following the completion of the Mona Vale Road (East) duplication but have been unable to receive reasons from the project managers or Transport for NSW (TfNSW) as to the reasons why the road is proposed to remain closed.

The purpose of this motion is for Council to write to TfNSW and seek formal advice and reasons for the proposal for Daydream Street to remain closed.

## 16.0 QUESTIONS WITH NOTICE

<b>ITEM 16.1</b>	<b>QUESTION WITH NOTICE NO 1/2023 - FOOTPATH, SEAVIEW ROAD, MONA VALE</b>
<b>TRIM FILE REF</b>	<b>2022/829292</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

Submitted by: Councillor Rory Amon

### QUESTION

I refer to request for a footpath on the eastern side of Surfview Road, Mona Vale, to form a part of the Coast Walk and to address safety and amenity issues.

1. The Ocean Beaches Plan of Management - Mona Vale does not specifically prohibit a footpath encroaching in the dune area (it is not listed on the page marked number 79 / page 12 of the published Plan of Management). Could staff please advise whether a footpath could be completed on the eastern side of Surfview Road, Mona Vale, without a need to amend/create a new Plan of Management? If the Plan of Management would need to be amended, could staff please advise why that is the case?
2. If the Plan of Management does need to be amended, could staff please advise when this can occur and what the associated timelines would be.

<b>ITEM 16.2</b>	<b>QUESTION WITH NOTICE NO 2/2023 - GIPA APPLICATIONS</b>
<b>TRIM FILE REF</b>	<b>2023/083109</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

Submitted by: Councillor Vincent De Luca OAM

## QUESTION

I refer to a recent email dated 5 January 2023 from Council's Information Access Officer to a constituent which states:

"My apologies for the delay in responding to your request - due to the high volume of information requests that Council received last year, there have been delays in responding within our usual timeframes."

In view of this, could I please be advised on the following:

1. How many Council Officers were responsible for processing applications made to Council under GIPA in 2021, 2022 and currently in 2023?
2. In each respective year 2019, 2020, 2021 and 2022 how many Formal and Informal Applications were received by Council?
3. Between 2019 to 2022 how many applications under GIPA were refused by Council?
4. Between 2019 to 2022 how many determinations on GIPA applications were subject to external review applications to the NSW Information and Privacy Commission and of those, how many did the Commission recommend Council review or change its decision?
5. Between 2019 to 2022 how many determinations on GIPA applications were subject to Appeal to NCAT and of those, how many Appeals were upheld by the Tribunal?
6. Between 2019 to 2022 what is the total amount of fees collected by Council for Formal GIPA Applications?

**ITEM 16.3**

**QUESTION WITH NOTICE NO 4/2023 - DOG ACCESS AT  
CABBAGE TREE BAY AQUATIC RESERVE AT THE BOWER  
IN MANLY**

**TRIM FILE REF**

**2023/117587**

**ATTACHMENTS**

**NIL**

Submitted by: Councillor Candy Bingham

**QUESTION**

What can be done to prevent dogs from accessing the rock platforms and swimming in the water at the highly sensitive and protected marine environment of Cabbage Tree Bay Aquatic Reserve at the Bower in Manly?

## 17.0 RESPONSES TO QUESTIONS WITH NOTICE

<b>ITEM 17.1</b>	<b>RESPONSE TO QUESTION WITH NOTICE NO 22/2022 - DEVELOPMENT APPLICATION OUTCOMES FOR FORMER PITTWATER LOCAL GOVERNMENT AREA</b>
<b>TRIM FILE REF</b>	<b>2022/727501</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

Submitted by: Councillor Miranda Korzy

### QUESTION

1. How many Development Applications (DAs) has Northern Beaches Council received for the former Pittwater Council area since 2016?
2. How many of these DAs has Council supported?
3. How many of these DAs has Council opposed through to the Land and Environment Court?
4. How many of these resulted in the court rejecting the DA?
5. How many resulted in a negotiated outcome?

### RESPONSE

1. Northern Beaches Council was proclaimed on 12 May 2016. Since 13 May 2016, Northern Beaches Council has received 3,842 Development Applications submitted under Pittwater LEP 2014.
2. Of the 3,842 Development Applications submitted, 3,709 were approved.
3. 54 Class 1 appeals were lodged with the Land and Environment Court relating to Development Applications submitted under Pittwater Local Environmental Plan 2014. 4 Class 1 appeals are currently ongoing.
4. 5 Class 1 appeals were dismissed by the Court.
5. 30 Development Applications subject to Class 1 appeal were approved by way of 'section 34 agreement' following the applicant submitting additional information or amended plans to the Court to address Council's contentions.

<b>ITEM 17.2</b>	<b>RESPONSE TO QUESTION WITH NOTICE NO 23/2022 - GRANDVIEW DRIVE, SEAVIEW AVENUE, NEWPORT - TRAFFIC CHANGES</b>
<b>TRIM FILE REF</b>	<b>2022/782470</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

Submitted by: Councillor Rory Amon

### QUESTION

Could Council staff review the feedback and comments by residents (circulated to staff) on the traffic changes made to Grandview Drive and Seaview Avenue, Newport and provide a report back to the February 2023 meeting of Council about what steps can be taken to improve the situation, noting the resident feedback, including but not limited to, considering:

1. What other measures can be taken to improve safety along the route
2. Relocating some or all of the speedbumps
3. Addressing concerns about the slipperiness of the bumps in the wet
4. Whether some or all the current speedbumps on the uphill lane are required
5. Other matters raised by residents.

### RESPONSE

1. Council staff have undertaken a review of the works undertaken and the road environment in general and found the location is subject of an existing 40km/h speed limit and a restriction on vehicles over 3 tonne Gross Vehicle Mass (GVM).

Additional works to improve safety may include additional resurfacing works with high frictional asphalt, further restrictions on trucks using Grandview Drive, increased or enhanced line marking, and potentially additional medians to allow for the removal of the uphill speed cushions.

2. There are two speed cushions on the uphill section that are being reviewed to determine what other options could achieve the required road safety benefits. The cushion location near 55 Grandview Drive would require the installation of a median to allow it to be removed and prevent vehicles driving on the incorrect side of the road to avoid the downhill cushion. The other location near 87 Grandview Drive is being reviewed to potentially have the rubber cushion removed and replaced with an asphalt speed hump instead to reduce the loss of traction issues being reported by the community.
3. The speed cushions used along this section of Grandview Drive comply with the requirements under the approval to use on public roads, however some drivers have reported issues with them being slippery to drive over resulting in a loss of traction. Staff are monitoring the speed cushions regularly to determine the extent of the issue and what part driver behaviour plays in the loss of traction issue.

4. The pre-installation assessment indicated that the average uphill speed was 46km/h with the peak speed exceeding 80km/h and 32% of all vehicles exceeding the posted speed limit of 40km/h. The downhill speed data was only marginally worse with the average downhill speed of 48km/h, a peak speed exceeding 90km/h and 45% of all vehicles exceeding the posted speed limit.

Based on the data there needs to be measures in place to mitigate the uphill traffic speeds as much as the downhill speeds.

Council will undertake further consultation with affected residents to gauge their views on removing uphill speed humps and putting in a median strip at those locations, for road safety.

5. Staff are looking at the overall pavement condition of Grandview Drive and what additional works is required. The road is not suitable for large vehicles to use as a route to Bilgola Plateau and this concern has been relayed to the NSW Police Highway Patrol for increased policing along with the speed information to assist in improving the safety of the length of road.

TfNSW recorded Accident details:

- March 2016 – minor injury head on near Sybil Street intersection
- August 2016 – serious injury near 79 Grandview Drive
- December 2017 – serious injury near 130 Grandview Drive
- March 2017 – moderate injury near 18 Grandview Drive
- October 2018 – minor injury head on near Sybil Street intersection.

Blackspot funding applications are assessed by TfNSW using data collected by them from police crash reports and self-reported incidents. Council can provide additional details to support the application. These locations have been on Council's list to address the safety concerns for some time prior to funding being allocated through the Federal Government Blackspot program.

These applications are provided to TfNSW up to 3 years prior to funding being provided and are assessed against a range of other projects in the Greater Sydney region and funded based on an extensive risk prevention and cost benefit analysis basis.

<b>ITEM 17.3</b>	<b>RESPONSE TO QUESTION TAKEN ON NOTICE NO 2/2023 - SEPP BACKGROUND</b>
<b>TRIM FILE REF</b>	<b>2023/052125</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

Taken on notice at the Extraordinary Council meeting on 24 January 2023 from: Councillor Vincent De Luca OAM

### QUESTION

Could Council staff please outline when the SEPP was introduced in relation to this matter and the objectives of the SEPP?

Is it correct that the SEPP was introduced to overcome prejudice to the indigenous community and ensure that proposals by the indigenous community were dealt with by impartial and expert opinion?

### RESPONSE

**Could Council staff please outline when the SEPP was introduced in relation to this matter and the objectives of the SEPP?**

State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP) commenced on 1 March 2022.

The Planning Systems SEPP consolidates and repeals the provisions of the following 3 SEPPs:

1. SEPP (State and Regional Development) 2011 (State and Regional Development SEPP)
2. SEPP (Aboriginal Land) 2019 (Aboriginal Land SEPP) (commenced 6 February 2019)
3. SEPP (Concurrences and Consents) 2018 (Concurrence SEPP).

The aims of Chapter 3 - Aboriginal land of the Planning Systems SEPP are –

- (a) to provide for development delivery plans for areas of land owned by Aboriginal Land Councils to be considered when development applications are considered, and
- (b) to declare specified development carried out on land owned by Aboriginal Land Councils to be regionally significant development.

**Is it correct that the SEPP was introduced to overcome prejudice to the indigenous community and ensure that proposals by the indigenous community were dealt with by impartial and expert opinion?**

The introduction to the Aboriginal Land SEPP Guideline, prepared by the Department of Planning in 2020, provides the following commentary on the need for the SEPP and related requirements:

*The Aboriginal Land Rights Act 1983 (ALR Act) was passed by the NSW Parliament to transfer land rights to the Aboriginal people of NSW as compensation for the loss and dispossession of their land. The ALR Act recognises the traditional ownership and occupation of the land, and that land is of spiritual, social, cultural and economic importance to Aboriginal people.*

*The NSW Aboriginal Land Council and a network of 120 Local Aboriginal Land Councils (LALCs) were established to acquire and manage land as an economic base for Aboriginal people, laying the basis for a self-reliant and more secure economic future.*



*Since the establishment of the ALR Act, LALCs have faced difficulty in creating economic development opportunities from claimed land. In order to use successfully claimed land for economic purposes, LALCs are often required to navigate the planning system to have land zoning and planning controls reconsidered and to have development applications approved. This can be particularly challenging for LALCs when upfront investment and expertise is required to engage with the planning system.*

*LALCs are unique and significant landowners with cultural, social and economic interests and responsibilities. They operate under different rules and have different responsibilities than others who seek to develop their land. Despite this, they are subject to the same planning processes and assessment criteria as any other landowner, in addition to processes required under the ALR Act. This magnifies difficulties, particularly for LALCs with limited resources and capacity to engage with the NSW planning system.*

*In response to this challenge, the NSW Government has released the Aboriginal Land Planning Framework to help LALCs across NSW better utilise their land. The Framework aligns the NSW planning system with the ALR Act to support better governance, strategic planning and more efficient use of land.*

*The Framework is a comprehensive set of planning measures to strengthen the economic self-determination of Aboriginal communities and achieve better social and economic outcomes from their land.*

<b>ITEM 17.4</b>	<b>RESPONSE TO QUESTION WITH NOTICE NO 3/2023 - NSW OMBUDSMAN REPORT - 2021-22 NORTHERN BEACHES COUNCIL COMPLAINTS BREAKDOWN</b>
<b>TRIM FILE REF</b>	<b>2023/083203</b>
<b>ATTACHMENTS</b>	<b>NIL</b>

Submitted by: Councillor Vincent De Luca OAM

### QUESTION

NSW Ombudsman Report and Sydney Morning Herald article - 29 January 2023 - Northern Beaches Council 3rd most complained about Council in NSW

Of the 66 complaints received by the NSW Ombudsman in 2021-22 how many were for:

- a. Maladministration
- b. Development Applications/Consents
- c. Compliance issues
- d. Council staff conduct
- e. Other

### RESPONSE

The NSW Ombudsman has not provided a breakdown of complaints finalised by category as contemplated by the above question.

Whilst Northern Beaches Council was ranked third in relation to the number of complaints finalised by the NSW Ombudsman, once population is accounted for (complaints per 100,000 residents), Northern Beaches Council was ranked seventh within the top ten Councils identified in the NSW Ombudsman report. It is likely that Northern Beaches Council would be further down the list of Councils for complaints per 100,000 residents if the NSW Ombudsman reported this data for all Councils.

Importantly, of the 66 complaints finalised by the NSW Ombudsman, 50 were finalised following assessment by the NSW Ombudsman without needing to take further action (unsubstantiated).

Of the remaining 16 complaints, the NSW Ombudsman referred 12 to Council for investigation. This occurs where the NSW Ombudsman determines that Council has not been given a sufficient opportunity to address the complaint itself.

The remaining 4 complaints were finalised by the NSW Ombudsman after it took further action. Further action may include contact with Council and/or the complainant.

Council recorded 18 Ombudsman complaints during this same time period. The difference in the number of complaints (2) is due to timing differences between receipt and consideration of complaints by the NSW Ombudsman and receipt and consideration of complaints by Council.

Of the 18 Ombudsman complaints recorded by Council during the 2021-22 financial year, 2 were substantiated. Both related to early collection of waste bins by URM. 2 others were partially substantiated. The remaining 14 were unsubstantiated.

In summary, of the 66 complaints finalised by the NSW Ombudsman in 2021/22, 2 were substantiated and another 2 were partially substantiated. All others were unsubstantiated.

## 18.0 MATTERS PROPOSED TO TAKE PLACE IN CLOSED SESSION

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### RECOMMENDATION

That:

1. In accordance with the requirements of section 10A of the Local Government Act 1993 as addressed below, Council resolve to close the meeting to the public to consider and discuss:
  - A. Item 18.1 Exemption from Tendering for Provision of Groceries for Children's Services, Glen Street Theatre and the NSW Rural Fire Service on the basis that it involves the receipt and discussion of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it [10A(2)(d(i)) Local Government Act 1993].

This report discusses/provides advice concerning the request for exemption from tendering of the ongoing supply of groceries for Children's Services, Glen Street Theatre and the NSW Rural Fire Service. On balance, the public interest in preserving the confidentiality of the information about the matter outweighs the public interest in maintaining openness and transparency in Council decision-making because the disclosure of this information would result in the release of commercial in confidence information.

- B. Item 18.2 RFT 2022/109 - Software Provider for Children's Services Tender Outcome on the basis that it involves the receipt and discussion of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it [10A(2)(d(i)) Local Government Act 1993].

This report discusses/provides advice concerning commercial tenders. On balance, the public interest in preserving the confidentiality of the information about the matter outweighs the public interest in maintaining openness and transparency in Council decision-making because the disclosure of this information would result in the release of commercial in confidence information.

- C. Item 18.3 RFT 2022/224 - Manly Dam Link Trail Boardwalk on the basis that it involves the receipt and discussion of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it [10A(2)(d(i)) Local Government Act 1993].

This report discusses/provides advice concerning commercial tenders. On balance, the public interest in preserving the confidentiality of the information about the matter outweighs the public interest in maintaining openness and transparency in Council decision-making because the disclosure of this information would result in the release of commercial in confidence information.

- D. Item 18.4 RFT 2022/100 - Irrigation Maintenance Services on the basis that it involves the receipt and discussion of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it [10A(2)(d(i)) Local Government Act 1993].

This report discusses/provides advice concerning commercial tenders. On balance, the public interest in preserving the confidentiality of the information about the matter outweighs the public interest in maintaining openness and transparency in Council decision-making because the disclosure of this information would result in the release of commercial in confidence information.

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- E. Item 18.5 Response to Notice of Motion No 38/2022 - Soft Plastics Recycling on the basis that it involves the receipt and discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business [10A(2)(c) Local Government Act 1993].

This report discusses/provides advice concerning options for soft plastics recycling. On balance, the public interest in preserving the confidentiality of the information about the matter outweighs the public interest in maintaining openness and transparency in Council decision-making because the disclosure of this information would confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.

- F. Item 18.6 Minutes of the Property Steering Committee Meeting held on 28 July 2022 and 21 September 2022. on the basis that it involves the receipt and discussion of commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a competitor of the council [10A(2)(d(ii)) Local Government Act 1993].

This report discusses/provides advice concerning Council assets. On balance, the public interest in preserving the confidentiality of the information about the matter outweighs the public interest in maintaining openness and transparency in Council decision-making because the disclosure of this information would provide commercial information to parties that, if disclosed, would place them at a commercial advantage.

- G. Item 18.7 Facilitating a Group Power Purchase Agreement for Northern Beaches Businesses on the basis that it involves the receipt and discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business [10A(2)(c) Local Government Act 1993].

This report discusses/provides advice concerning commercial proposals. On balance, the public interest in preserving the confidentiality of the information about the matter outweighs the public interest in maintaining openness and transparency in Council decision-making because the disclosure of this information would result in the release of commercial in confidence information.

2. The resolutions made by the Council in Closed Session be made public after the conclusion of the Closed Session and such resolutions be recorded in the Minutes of the Council Meeting.

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## 19.0 REPORT OF RESOLUTIONS PASSED IN CLOSED SESSION

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In accordance with Part 15 of the Code of Meeting Practice, resolutions passed during a meeting, or a part of a meeting, that is closed to the public must be made public by the chairperson as soon as practicable. The resolution must be recorded in the publicly available minutes of the meeting.

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