



**BUSINESS PAPER**

**COUNCIL MEETING**

**Tuesday, 6 December, 2011**

**Meeting commences at 6.30pm**

**Council Chambers  
Level 3, 2-14 Fisher Street  
Petersham**

## MARRICKVILLE COUNCIL

Administrative Centre  
PETERSHAM

29 November 2011

Notice is given of the **COUNCIL MEETING**, to be held in the Council Chambers on Level 3 of the Administrative Centre, 2 Fisher Street, Petersham on Tuesday, 6 December, 2011 commencing at 6.30pm.

Yours faithfully

Ken Gainger  
**General Manager**

### COUNCILLORS

<b>Chairperson</b>	Councillor Morris Hanna OAM (Mayor)	South Ward	Ph: 9569 1447 Fax: 9550 0636
<b>Deputy Chairperson</b>	Councillor Sam Iskandar (Deputy Mayor)	Central Ward	Ph: 9558 7777 Fax: 9554 7841
	Councillor Max Phillips	Central Ward	Ph: 0419 444 916 Fax: 9335 2029
	Councillor Victor Macri	Central Ward	Ph: 9569 2865 Fax: 9569 8750
	Councillor Cathy Peters	North Ward	Ph: 0419 444 974 Fax: 9335 2029
	Councillor Laura Wright	North Ward	Ph: 9560 8707 Fax: 9335 2029
	Councillor Fiona Byrne	North Ward	Ph: 0401 719 120 Fax: 9335 2029
	Councillor Peter Olive	South Ward	Ph: 0401 719 148 Fax: 9559 6098
	Councillor Mary O'Sullivan	South Ward	Ph: 9559 8980 Fax: 9335 2029
	Councillor Marika Kontellis	West Ward	Ph: 9590 3898 Fax: 9335 2029
	Councillor Dimitrios Thanos	West Ward	Ph: 9569-0199 Fax: 9550-0849
	Councillor Emanuel Tsardoulis	West Ward	Ph: 9568 5560 Fax: 9335 2029

## **Council and Committee Meetings**

To enable Council to give consideration to items of business at each Meeting, a Business Paper, like this one, is prepared, containing reports by senior staff in relation to each item listed on the Agenda for the Meeting. The Business Paper for each Meeting is available for perusal by members of the public at Council's Libraries and Community Neighbourhood Centres on the Thursday prior to the Council/Committee Meeting.

Meetings are conducted in accordance with Council's Code of Meeting Practice. The order of business is listed in the Agenda. That order will be followed unless a procedural motion is adopted to change the order of business at the meeting. This sometimes happens when members of the public request to address the Council on an item on the Agenda.

Some items are confidential in accordance with S10A(2) of the Local Government Act. This will be clearly stated in the Business Paper. These items may not be discussed in open Council and observers may be asked to leave the Council Chambers when they are discussed. The grounds on which a meeting is closed to the public must be specified in the decision to close the meeting and recorded in the minutes of the meeting. The number of items that are dealt with as confidential are kept to a minimum.

Each of Council's committees has delegated authority to make decisions subject to a number of limitations. Matters which cannot be decided by the committees are referred to the Ordinary Council Meeting for decision.

### **More Information**

Please visit Marrickville Council's website at [www.marrickville.nsw.gov.au](http://www.marrickville.nsw.gov.au) for more information on the following:

- Committee Structure and Delegations
- meeting dates for the remainder of the year
- information on attending Council and committee meetings, and on applying to speak at meetings

**Persons in the public gallery are advised that under the Local Government Act 1993, a person may NOT tape record a Council or Committee meeting without the authority of the Council or Committee.**

**Council grants authority to an accredited television or radio media representative to record by the use of audio or video recording equipment, the proceedings of a Council or Committee meeting upon production of suitable identification and evidence of employment.**

**Any persons found tape recording without authority will be expelled from the meeting.**

**"Tape record" includes the use of any form of audio, video and still camera equipment or mobile phone capable of recording speech.**

**An audio recording of this meeting will be taken for minute taking purposes and will be destroyed upon confirmation of the minutes.**

## SUMMARY OF ITEMS

The following provides a summary of the items to be considered at the meeting.

## MAYORAL MINUTES

Nil at the time of printing.

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## NOTICES OF MOTION

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## QUESTIONS FROM COUNCILLORS

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## PRECIS

1	Acknowledgement of Country	
2	Period of Silence for Prayer, Pledge or Contemplation	
3	Present	
4	Apologies	
5	Disclosures of Interest (Section 451 of the Local Government Act and Council's Code of Conduct)	
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C1211(1) Item 1	43-45 AUSTRALIA STREET, CAMPERDOWN	18

File Ref: DA201100437-03/66313.11

This report concerns a development application to carry out alterations and additions to the existing building on the site for its adaptive reuse for the purpose of student accommodation, comprising a total of 12 multiple occupancy rooms and 111 single occupancy rooms, to accommodate up to a total of 154 residents, and a manager's residence pursuant to the heritage conservation incentives provisions contained in Clause 54 of Marrickville Local Environmental Plan 2001.

The development application relates to a type of development that the Minister of Planning has categorised as being of regional significance. The Sydney East Joint Regional Planning Panel is the consent authority for the purposes of determining the application.

Council officers have carried out an assessment of the application and the Council officer's report on the application has been forwarded to the Sydney East Joint Regional Planning Panel for the Regional Panel's consideration. A copy of the Council Officer's assessment report on the development application is **ATTACHED** to the rear of this report as **ATTACHMENT 1**. The officer's report recommends refusal of the application.

The matter has been set down for hearing by the panel on Tuesday 13 December 2011 at the offices of the NSW Department of Planning and Infrastructure's Planning Assessment Commission located at Thakral House, Level 13, 301 George Street, Sydney at 12 noon.

The matter is referred to the Council for information and the Council needs to determine whether it wishes to make a submission to the Panel in relation to the proposal, and if so, the contents of such submission.

**RECOMMENDATION** **19**

**THAT Council determine whether it wishes to make a submission to the Panel in relation to the proposal, and if so, the contents of such submission.**

**C1211(1) Item 2      PEDESTRIAN, CYCLIST & TRAFFIC CALMING ADVISORY COMMITTEE MEETING HELD TUESDAY 15 NOVEMBER 2011** **84**

File Ref: 3337/65478.11  
The Pedestrian, Cyclist & Traffic Calming Advisory Committee held a meeting on Tuesday 18 October 2011 to discuss 15 items.

**RECOMMENDATION** **84**

**THAT the recommendations in Section B and Section C of the Pedestrian, Cyclist & Traffic Calming Advisory Committee held on Tuesday 15 November 2011 be adopted.**

**C1211(1) Item 3      BOARDING HOUSES AND HOMELESSNESS IN MARRICKVILLE ROUNDTABLE** **99**

File Ref: 3905/64758.11  
Council is advised that following Council's endorsement of the *Boarding Houses and Homelessness in Marrickville Report* at the Council Meeting held on 11 October 2011 (Report Number C1011 Item 2), Community Development staff convened a formal meeting of key stakeholders. The stakeholder meeting took place on 27 October 2011 to scope next steps in developing an alternative boarding house management model. Based on the findings outlined in the *Draft Boarding Houses and Homelessness in Marrickville Report*, the purpose of the meeting was to develop a research brief in which the key stakeholders will be willing to participate.

**RECOMMENDATION** **101**

- THAT:**
- 1. the report be received and noted;**
  - 2. Council support the Boarding House Network's initiatives within current resources;**

3. Council and partners advocate for occupancy agreements and enforceable minimum standards for boarding houses; and
4. Council make representations requesting the State Government legislate for the compulsory registration and licensing of boarding houses and that full funding be made available to local government to undertake this function.

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<b>C1211(1) Item 4</b>	<b>COAG NATIONAL QUALITY AGENDA FOR EDUCATION AND CARE SERVICES</b>	<b>111</b>
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File Ref: 1987-01/63710.11

This report outlines the significant changes to be implemented in Council's children's services over a five to ten year period and seeks Council's endorsement of the Action Plan outlined in the report. This Plan aims to ensure compliance with the new national law, regulations, quality assurance and national learning frameworks being introduced as part of the COAG Early Childhood Education and Care Reform Agenda and National Quality Framework.

**RECOMMENDATION**

**117**

**THAT Council:**

1. note the significant changes to be implemented in Council's education and care services during 2011 to 2016 as part of the COAG National Reform Agenda and implementation of the National Quality Framework; and
2. endorse the Action Plan as detailed in the report.

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<b>C1211(1) Item 5</b>	<b>RESIDENT PETITION TO REMOVE AND REPLACE NORFOLK ISLAND HIBISCUS (<i>LAGUNARIA PATERSONIA</i>) STREET TREES IN HARROW RD, STANMORE</b>	<b>118</b>
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File Ref: S2270-03/64379.11

This report addresses a resident petition for Council to remove and replace 24 Norfolk Island Hibiscus (*Lagunaria patersonia*) street trees in Harrow Rd Stanmore. There is a history of resident complaints regarding the subject trees dating back to 1999. The reported complaints include infestations of Cotton Harlequin Bug (*Tectoris diopthalmus*); Excessive flower litter production and the production of small 'glass-like' hairs from seed pods of the trees. These small hairs have reportedly caused skin irritations to resident's children and pets as well as continually becoming stuck in resident feet. It is considered that the most practicable management option is to undertake a phased removal and replacement of the subject trees, occurring in 2 stages at approximately five year intervals.

**RECOMMENDATION**

121

**THAT:**

1. Council undertake to remove and replace the 24 Norfolk Island Hibiscus Street trees in Harrow Rd, Stanmore;
2. the removal and replacements be phased to occur in two stages approximately 5 years apart;
3. the first stage of removals comprise the 11 trees located between numbers 2-30 Harrow Rd;
4. the second stage of removals comprise the 13 trees located between numbers 40-64 Harrow Rd; and
5. the replacement trees be comprised of a single appropriate deciduous species so as to afford winter solar access and summer shade benefits to south west facing dwellings.

C1211(1) Item 6

**FEDERAL GOVERNMENT INFRASTRUCTURE FUNDING-  
LIVEABLE CITIES PROGRAM - POTENTIAL PROJECTS FOR  
MARRICKVILLE LGA**

135

File Ref: 4261-02/66325.11

Council considered a report on a proposed refurbishment of Marrickville Town Hall Forecourt. at its meeting on 15<sup>th</sup> November 2011. Following consideration of the matter the Council resolved to investigate sources of Federal funding and other grant money for further improvement projects to Marrickville. Council also resolved to review a list of major potential infrastructure projects including the upgrading of the forecourt of Marrickville Town Hall. This report provides an over view of the Federal funding currently available for infrastructure projects and provides a list of potential projects that meet the criteria spelt out in the associated guideline.

**RECOMMENDATION**

139

**THAT:**

1. Council applies for \$150,000 of funding through the Liveable Cities Program, Stream 1 – Planning & Design, to facilitate the undertaking of a Public Domain Strategy; and
2. should Canterbury Council be prepared to be the lead applicant in the Wardell Road Crossing project then Council make an application for this also under Stream 1 – Planning & Design; and
3. Council applies for \$450,000 under the same program, through Stream 2 – Demonstration Projects, to support the undertaking of the Station Street Marrickville project.

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<b>C1211(1) Item 7</b>	<b>MINUTES OF THE MARRICKVILLE TRANSPORT PLANNING AND ADVISORY COMMITTEE HELD ON 27 OCTOBER 2011</b>	<b>143</b>
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File Ref: 317-01/65634.11

The Marrickville Transportation Planning and Advisory Committee (Transport Committee) held a meeting to consider 11 items on 27 October 2011.

<b>RECOMMENDATION</b>	<b>144</b>
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**THAT:**

1. Council receives and notes this report; and
2. Council:
  - (a) writes to Roads & Maritime Services (RMS) requesting a speed limit reduction for Addison Road, explaining the rationale for this request;
  - (b) alters the 'no cycling' signs on Addison Road to make it clear that cycling is prohibited on the footway, not the roadway; and
  - (c) investigates works that could be implemented in the area of Addison Road near the community centre entry/exit to improve conditions for cycling.

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<b>C1211(1) Item 8</b>	<b>REVIEW OF DLG COMPARATIVE DATA 2009/10</b>	<b>149</b>
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File Ref: 217-01/66369.11

The attached table provides an overview of the comparative data recently released by the Division of Local Government (DLG). The comparisons show that Marrickville continues to provide good value for money relative to other similar-sized urban councils. It continues to provide comparatively high rates of per capita expenditure across a range of service areas, while maintaining a low average residential rate.

Council has a similar level of dependence on rates to other comparable urban councils, but receives a greater share of its income from user charges, and a smaller proportion from developer contributions. In comparison to other councils, however, Marrickville has a high proportion of expenditure on employee costs.

<b>RECOMMENDATION</b>	<b>159</b>
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**THAT:**

1. the report be received and noted
2. the comparative data be used to inform the maintenance of the Delivery Program, Operational Plan and Resourcing Strategy
3. the comparative data be used to inform service planning and provision.

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**C1211(1) Item 9      COUNCIL INVESTMENTS AS AT 31 OCTOBER 2011      164**

File Ref: 439/66229.11

In accordance with the requirements of clause 212 of the Local Government (General) Regulation 2005, Council is provided with a listing of all investments made pursuant to section 625 of the Local Government Act 1993 and held as at 31 October 2011.

**RECOMMENDATION      166**

**THAT :**

1. the report indicating Council's Fund Management position be received and noted; and
2. Council approve the utilisation of Austraclear Limited as detailed in (ATTACHMENT 5).

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**C1211(1) Item 10      DUAL ROLES – COUNCILLORS AS MEMBERS OF PARLIAMENT IN NSW      175**

File Ref: 952-01/67099.11

Report inviting a submission from Council on the dual roles of Councillors as Members of Parliament in NSW.

**RECOMMENDATION      176**

**THAT Council determines:**

1. whether to respond to the Discussion Paper on Dual Roles as Councillors and as Members of Parliament in NSW; and
2. the terms in which the response should be made.

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**9      Notices of Motion**

<b>C1211(1) Item 11</b>	<b>NOTICE OF MOTION: DRAFT MARRICKVILLE DEVELOPMENT CONTROL 2011</b>	<b>190</b>
<b>C1211(1) Item 12</b>	<b>NOTICE OF MOTION: LOUISA LAWSON RESERVE</b>	<b>191</b>
<b>C1211(1) Item 13</b>	<b>NOTICE OF MOTION: JACK SHANAHAN RESERVE</b>	<b>194</b>
<b>C1211(1) Item 14</b>	<b>NOTICE OF MOTION: REFURBISHMENT OF KINTORE STREET POCKET PARK</b>	<b>195</b>

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**10      Questions From Councillors**

<b>C1211(1) Item 15</b>	<b>QUESTIONS ON NOTICE: GARBAGE COLLECTION CREWS</b>	<b>197</b>
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**Minutes of Council Meeting held on Tuesday, 15 November 2011**

Meeting commenced at 6.35pm

**ACKNOWLEDGEMENT OF COUNTRY BY CHAIRPERSON**

*We meet tonight on the traditional land of the Cadigal people of the Eora nation. I acknowledge the terrible wrongs committed against the Aboriginal peoples of this country and their care of the land over many generations. I celebrate their ongoing survival and achievements in today's society.*

**COUNCILLORS PRESENT**

Hanna (Chair/Mayor)	Iskandar (Deputy Mayor)	O'Sullivan
Thanos	Olive	Kontellis
Macri	Peters	Phillips
Tsardoulis	Wright	

**APOLOGIES**

**Motion:** (Kontellis/Hanna)

THAT the apology for Councillor Byrne is noted and leave of absence granted.

**Motion Carried**

**For Motion:** Councillors Hanna, Iskandar, Kontellis, Macri, Olive, O'Sullivan, Peters, Phillips, Thanos, Tsardoulis and Wright

**Against Motion:** Nil

**DISCLOSURES OF INTERESTS:** Nil.

**CONFIRMATION OF MINUTES**

**Motion:** (Hanna/Iskandar)

THAT the Minutes of the Council Meeting held on Tuesday, 1 November 2011 be confirmed.

**Motion Carried**

**For Motion:** Councillors Hanna, Iskandar, Kontellis, Macri, Olive, O'Sullivan, Peters, Phillips, Thanos, Tsardoulis and Wright

**Against Motion:** Nil

**C1111(2) Item 1**

**PROPOSED REFURBISHMENT OF MARRICKVILLE TOWN  
HALL FORECOURT**

**Motion:** (Olive/Phillips)

THAT:

1. staff undertake a further report on the reduced scope of works including the repaving of the forecourt with granite, removal of seating and sundry furnishings to be replaced with wooden benches as shown by Councillor Olive, relocation of the bus stop;
2. Council write to the local RSL Club or Heritage Society to seek their opinions on the possible removal of the tree around the War Memorial; and
3. staff investigate funding options through Federal grant funding for infrastructure as part of the report.

**Motion Tied**

**For Motion:** Councillors Kontellis, Macri, Olive, Peters and Phillips  
**Against Motion:** Councillors Iskandar, O'Sullivan, Thanos, Tsardoulis and Wright  
**Absent:** Councillor Hanna

The Chairperson used his Casting Vote and the **MOTION** was lost.

**Motion: (Tsardoulis/Macri)**

THAT:

1. staff investigate funding options through Federal Stimulus or other grant funding for infrastructure and consider this for inclusion in the 2012/13 Budget; and
2. considers an allocation of \$20,000 in the 2012-13 budget process to fund a master plan study for the Marrickville Town Hall forecourt area so that it can be undertaken in conjunction with an upcoming Public Domain Study and Marrickville Road Master Plan.

**Motion Lost**

**For Motion:** Councillors Iskandar, Macri, O'Sullivan and Tsardoulis  
**Against Motion:** Councillors Olive, Kontellis, Peters, Phillips, Thanos and Wright  
**Absent:** Councillor Hanna

**Motion: (Wright/Thanos)**

THAT:

1. Council investigate sources of Federal funding and other grant money for further improvement projects to Marrickville. The Council review the list of major potential infrastructure projects including the upgrade redevelopment of the forecourt of Marrickville Town Hall; and
2. if grant money is not available, the staff come back to Council with a reduced costed plan for Marrickville Town Hall Forecourt.

**Motion Carried**

**For Motion:** Councillors Iskandar, Kontellis, O'Sullivan, Peters, Phillips, Thanos and Wright  
**Against Motion:** Councillors Macri, Olive and Tsardoulis  
**Absent:** Councillor Hanna

**C1111(2) Item 2****SUPPLEMENTARY REPORT - APPLICATION FOR SPECIAL RATE VARIATION FOR NEW MARRICKVILLE LIBRARY**

Public speaker: Helayne Short

**Amendment: (Thanos/Phillips)**

THAT the following point be deleted from the Motion (point 1 of the recommendation as it appears on page 26 of the Business Paper):

- Council resolves not to lodge a Special Rate Variation application under s508(2) in 2012/13 to assist in funding a new library.

**Amendment Carried**

**For Motion:** Councillors Iskandar, Kontellis, Olive, O'Sullivan, Peters, Phillips, Thanos and Wright  
**Against Motion:** Councillors Hanna, Macri and Tsardoulis



**Motion: (Macri/Tsardoulis)**

THAT Council:

1. supports the continuation of consultation with all stakeholders regarding the design and funding, partly through a Special Rate Variation, of a new library on the Marrickville hospital site incorporating the existing heritage hospital building and on the location and design of associated open space;
2. amends the current design consultation strategy including the exhibition of the submitted design concepts to enable consultation to extend until February 2012 with a report back to Council in March 2012; and
3. requests a further report on the outcomes of consultation regarding a Special Rate Variation in June 2012.

**Motion Carried**

**For Motion:** Councillors Hanna, Iskandar, Macri, Olive, O'Sullivan, Peters, Phillips, Thanos, Tsardoulis and Wright

**Against Motion:** Councillor Kontellis

**C1111(2) Item 3**

**RESPONSE TO NOTICE OF MOTION C0511 ITEM 5**  
**HERITAGE AND HISTORY PLANNING SERVICES**

**Motion: (O'Sullivan/Wright)**

Council acknowledges evidence of the hard work and welcomes information on the planned initiatives of the new Library and History Services Team. In particular we note

- a timely focus on migration history,
- the innovative project on the histories of Marrickville's religious communities, and
- preliminary steps towards work on Marrickville's theatrical and entertainment history;
- joint projects planned with the Heritage Society;
- overdue improvements to the archives due to increased expert staff.

Council endorses the more specific focus on promotions of the Heritage Promotions Committee. We believe that the Committee needs to provide advice on the major promotional events during History week, as well as the Medal. This will entail a smaller number of more focused meetings but more than the two proposed in the paper.

Many of the people interested in heritage and history in Marrickville remain concerned, rightly or wrongly, that the profile of History Services remains diminished in comparison with the traditions set previous years. Poor participation in the Heritage Promotions Committee is evidence of this, as well as the low attendance at some events noted in the paper.

Council therefore requests the History team to coordinate an invitation based community forum early in 2012 to provide advice on future vision directions and priorities for History Services in Marrickville. While the forum should be open, invitees should include local heritage and local history experts and community groups with a direct interest in the social impacts of heritage.

The outcomes of the Forum should be reported to Council and incorporated where possible into the vision, planning and priorities of History and Library Services.

**Motion Carried**

**For Motion:** Councillors Iskandar, Kontellis, Macri, Olive, O'Sullivan, Peters, Phillips, Thanos, Tsardoulis and Wright

**Against Motion:** Nil

**Absent:** Councillor Hanna

**C1111(2) Item 4                      HERITAGE STUDY REVIEW AND SCOPING REPORT**

Public speakers:            Olga Gruzdeff and Helayne Short

**Motion:**            (O'Sullivan/Tsardoulis)

THAT:

1. Council resolve to undertake a heritage review in broad accordance with Option 2 with the heritage assessment of Hoskins Park and environs in Dulwich Hill being preferably undertaken and funded by savings within the existing Planning Services budget and Projects 1& 2 within Option 2 subject to the allocation of funds for this study as part of the 2012/13 budget process;
2. noting that few heritage Items and no conservation areas have been nominated in the Southern part of the municipality, Council officers provide a further report to Council as soon as possible indicating ways in which items and areas in Marrickville's Southern area-defined as South of the railway Line - can be included in Option 3, even if only as preliminary work; and
3. that the supplementary report also provide more specific estimates for the work, to enable proper consideration as an item in the 2012/13 budget.

**Motion Carried**

**For Motion:**            Councillors Hanna, Iskandar, Macri, O'Sullivan, Thanos, Tsardoulis and Wright

**Against Motion:**        Councillors Kontellis, Olive, Peters and Phillips

**C1111(2) Item 5                      ADOPTION OF THE DRAFT BIODIVERSITY STRATEGY 2011-2021, BIODIVERSITY ACTION PLAN 2011-2015 AND APPENDICES**

**Motion:**            (Thanos/Peters)

THAT Council adopts the final Biodiversity Strategy 2011-2021, the Biodiversity Action Plan 2011-2015; and associated Appendices.

**Motion Carried**

**For Motion:**            Councillors Iskandar, Kontellis, Macri, Olive, O'Sullivan, Peters, Phillips, Thanos, Tsardoulis and Wright

**Against Motion:**        Nil

**Absent:**                Councillor Hanna

**C1111(2) Item 6                      ADOPTION OF AN AMENDED PLAN OF MANAGEMENT FOR DENISON ROAD PLAYGROUND**

**Motion:**            (Thanos/Tsardoulis)

THAT:

1. Council adopt the amended Community Land Plan of Management for Denison Road Playground at ATTACHMENT 1;
2. revoke all previous Plans of Management for Denison Road Playground; and
3. Consider the allocation of funds for the proposed remediation works as part of the 2012/13 budget process.

**Motion Carried**

**For Motion:**            Councillors Iskandar, Kontellis, Macri, Olive, O'Sullivan, Peters, Phillips, Thanos, Tsardoulis and Wright

**Against Motion:**        Nil

**Absent:**                Councillor Hanna

**C1111(2) Item 7****PEDESTRIAN, CYCLIST & TRAFFIC CALMING ADVISORY  
COMMITTEE MEETING HELD TUESDAY 18 OCTOBER 2011****Motion: (Tsardoulis/Thanos)**

THAT, with the exception of Item B1, the remaining recommendations in Sections B and C of the Pedestrian, Cyclist & Traffic Calming Advisory Committee held on Tuesday 18 October 2011 be adopted.

**Motion Carried**

**For Motion:** Councillors Iskandar, Kontellis, Macri, Olive, O'Sullivan, Peters, Phillips, Thanos, Tsardoulis and Wright

**Against Motion:** Nil

**Absent:** Councillor Hanna

**Item B1 of C1111(2) Item 7****Motion: (Olive/Peters)**

THAT Council proceed with the raised level crossing at the intersection of Gleeson Street and Railway Road, Sydenham.

**Motion Tied**

**For Motion:** Councillors Kontellis, Olive, Peters and Thanos

**Against Motion:** Councillors Iskandar, O'Sullivan, Tsardoulis and Wright

**Absent:** Councillors Hanna, Macri and Phillips

The Chairperson used his Casting Vote and the **MOTION** was lost.

**C1111(2) Item 8****QUARTERLY FINANCE REVIEW FOR THE PERIOD ENDED  
30 SEPTEMBER 2011****Motion: (Tsardoulis/Wright)**

THAT:

1. the report be received and noted; and
2. Council approve the variations identified as matters requiring budget adjustments.

**Motion Carried**

**For Motion:** Councillors Iskandar, Kontellis, Macri, Olive, O'Sullivan, Peters, Phillips, Thanos, Tsardoulis and Wright

**Against Motion:** Nil

**Absent:** Councillor Hanna

**C1111(2) Item 9****FURTHER REPORT ON REVIEW ON THE PAYMENT OF  
COUNCILLOR EXPENSES AND FACILITIES POLICY FOR  
COUNCILLORS****Motion: (Tsardoulis/O'Sullivan)**

THAT:

1. the report be received and noted; and
2. Council adopt the draft Payment of Expenses and Provision of Facilities to Councillors Policy at Attachment 1 of the report.

**Motion Carried**

**For Motion:** Councillors Iskandar, Kontellis, Macri, Olive, O'Sullivan, Peters, Phillips, Thanos, Tsardoulis and Wright

**Against Motion:** Nil

**Absent:** Councillor Hanna

**C1111(2) Item 10****STATUS UPDATE - PETITIONS RECEIVED FOR THE  
PERIOD 29 SEPTEMBER TO 1 NOVEMBER 2011****Motion:** (Macri/Thanos)

THAT the report be received and noted.

**Motion Carried****For Motion:** Councillors Iskandar, Kontellis, Macri, Olive, O'Sullivan, Peters, Phillips, Thanos, Tsardoulis and Wright**Against Motion:** Nil**Absent:** Councillor Hanna**C1111(2) Item 11****COUNCILLORS ACCESS TO INFORMATION -  
OCTOBER 2011****Motion:** (Iskandar/Wright)

THAT the report be received and noted.

**Motion Carried****For Motion:** Councillors Iskandar, Kontellis, Macri, Olive, O'Sullivan, Peters, Phillips, Thanos, Tsardoulis and Wright**Against Motion:** Nil**Absent:** Councillor Hanna**C1111(2) Item 12****STATUS UPDATES - RESOLUTIONS OF COUNCIL****Motion:** (Iskandar/Macri)

THAT the report be received and noted.

**Motion Carried****For Motion:** Councillors Iskandar, Kontellis, Macri, Olive, O'Sullivan, Peters, Phillips, Thanos, Tsardoulis and Wright**Against Motion:** Nil**Absent:** Councillor Hanna**C1111(2) Item 13****DISTRIBUTION OF THE COUNCIL RATE BURDEN****Motion:** (Thanos/Iskandar)

THAT Council investigate the issue of disproportionate distribution of the rate burden between Councils different rating categories and make suggestions that could be considered to address these disparities (if any).

**Motion Carried****For Motion:** Councillors Iskandar, Kontellis, Macri, Olive, O'Sullivan, Peters, Phillips, Thanos, Tsardoulis and Wright**Against Motion:** Nil**Absent:** Councillor Hanna

**REPORTS WITH CONFIDENTIAL INFORMATION**

C1111(2) Item 14

**TENDER 11/11 EXPRESSIONS OF INTEREST FOR  
LANDSCAPE CONSTRUCTION PROJECTS****Motion:** (Tsardoulis/O'Sullivan)

THAT:

1. Council resolve that ATTACHMENT 1 to the report be treated as confidential in accordance with Section 11(3) of the Local Government Act 1993, as it relates to a matter specified in Section 10A(2) of the Local Government Act 1993, and as such is to be treated as confidential.
2. the Tenderers recommended in Confidential ATTACHMENT 1 be eligible for prequalification to tender for landscape construction projects for a period of up to 5 years subject to satisfactory performance.

**Motion Carried****For Motion:** Councillors Iskandar, Kontellis, Macri, Olive, O'Sullivan, Peters, Phillips, Thanos, Tsardoulis and Wright**Against Motion:** Nil**Absent:** Councillor Hanna

Meeting closed at 9.58pm.

**CHAIRPERSON**

**Item No:** C1211(1) Item 1

**Subject:** 43-45 AUSTRALIA STREET, CAMPERDOWN

**File Ref:** DA201100437-03/66313.11

**Prepared By:** Ali Hammoud - Senior Development Assessment Officer (Planning)

## SYNOPSIS

This report concerns a development application to carry out alterations and additions to the existing building on the site for its adaptive reuse for the purpose of student accommodation, comprising a total of 12 multiple occupancy rooms and 111 single occupancy rooms, to accommodate up to a total of 154 residents, and a manager's residence pursuant to the heritage conservation incentives provisions contained in Clause 54 of Marrickville Local Environmental Plan 2001.

The development application relates to a type of development that the Minister of Planning has categorised as being of regional significance. The Sydney East Joint Regional Planning Panel is the consent authority for the purposes of determining the application.

Council officers have carried out an assessment of the application and the Council officer's report on the application has been forwarded to the Sydney East Joint Regional Planning Panel for the Regional Panel's consideration. A copy of the Council Officer's assessment report on the development application is **ATTACHED** to the rear of this report as **ATTACHMENT 1**. The officer's report recommends refusal of the application.

The matter has been set down for hearing by the panel on Tuesday 13 December 2011 at the offices of the NSW Department of Planning and Infrastructure's Planning Assessment Commission located at Thakral House, Level 13, 301 George Street, Sydney at 12 noon.

The matter is referred to the Council for information and the Council needs to determine whether it wishes to make a submission to the Panel in relation to the proposal, and if so, the contents of such submission.

## 1. Background

A development application (DA201100437) was submitted to Council on 9 September 2011, seeking consent to carry out alterations and additions to the existing building on the site for its adaptive reuse for the purpose of student accommodation, comprising a total of 12 multiple occupancy rooms and 111 single occupancy rooms, to accommodate up to a total of 154 residents, and a manager's residence pursuant to the heritage conservation incentives provisions contained in Clause 54 of Marrickville Local Environmental Plan 2001.

Council officers have carried out an assessment of the application and the Council officer's report on the application has been forwarded to the Sydney East Joint Regional Planning Panel for the Regional Panel's consideration. The officer's report recommends refusal of the application.

A copy of the report prepared by Council Officers on the application for the Joint Regional Planning Panel's consideration is **ATTACHED** to the rear of this report as **ATTACHMENT 1**.

## 2. Council representation to a Joint Regional Planning Panel

Section 4.6 of the Department of Planning and Infrastructure's "Procedures for the operation of Joint Regional Planning Panels" relates to "Council representation to the Regional Panel". That section of the Procedures reads as follows:

### ***"4.6 Council representation to the Regional Panel"***

*A council may make a submission on a development application that is to be determined by a Regional Panel during and up to seven (7) days before the Panel Meeting. The applicant may consider it appropriate to provide a briefing to council prior to the council framing its submission to the Panel.*

*The council submission should be forwarded to the Panel Secretariat. A Regional Panel will give consideration to a council submission in its determination of the application. A council submission, however, is not a matter that must be specifically addressed in the assessment report or recommendations prepared by the council staff."*

## 3. Conclusion

The Panel Secretariat has advised that the matter has been scheduled for hearing by the Joint Regional Planning Panel on Tuesday 13 December 2011 at the offices of the NSW Department of Planning and Infrastructure's Planning Assessment Commission located at Thakral House, Level 13, 301 George Street, Sydney at 12 noon.

Council needs to determine whether it wishes to make a submission to the Panel in relation to the proposal, and if so, the contents of such submission. It should be noted that specific time constraints apply to the Council making a submission on a development application that is required to be determined by a Joint Regional Planning Panel.

Under the Department of Planning and Infrastructure's "Procedures for the operation of Joint Regional Planning Panels" any submission that the Council make in relation to the proposal must be received by Panel Secretariat no later than 6 December 2011 on the basis of the matter being considered by the Panel on 13 December 2011. The Panel Secretariat has advised that it will accept Council's submission on 7 December 2011.

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### **RECOMMENDATION**

**THAT** Council determine whether it wishes to make a submission to the Panel in relation to the proposal, and if so, the contents of such submission.

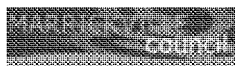
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Judy Clark  
Manager, Development Assessment

## **ATTACHMENTS**

1. Officer's Assessment Report on the Development Application





**Assessment Report  
43-45 AUSTRALIA STREET, CAMPERDOWN**

**SYNOPSIS**

The subject application seeks consent to carry out alterations and additions to the existing building on the site for its adaptive reuse for the purpose of student accommodation, comprising a total of 12 multiple occupancy rooms and 111 single occupancy rooms, to accommodate up to a total of 154 residents, and a manager's residence pursuant to the heritage conservation incentives provisions contained in Clause 54 of Marrickville Local Environmental Plan 2001. The proposed development is only permissible if the consent authority is satisfied that the retention of the existing building that is a heritage item depends on the granting of consent and the proposed development satisfies all the heritage conservation incentives provisions contained in Clause 54 (1) of Marrickville Local Environmental Plan 2001. If the proposed development fails to satisfy one or more of those provisions, the proposed development is prohibited under the zoning provisions applying to the land under Marrickville Local Environmental Plan 2001. It should be noted that under Marrickville Local Environmental Plan 2001 only the Australia Street facade of the existing building is heritage listed. The remainder of the building is not a heritage item under MLEP 2001.

As detailed in this report, the proposed development fails to satisfy a number of the heritage conservation incentives provisions in Clause 54 (1) of Marrickville Local Environmental Plan 2001 and as such the proposed development is prohibited.

Notwithstanding the above, the proposal to adaptively reuse the existing building would not have any physical impacts on the height, bulk and scale of the existing building and its compatibility with the existing streetscape. The proposal is not considered to compromise the significance of the heritage item and its setting given that no noticeable additions are proposed to the building.

The proposed development has a floor space ratio of 2.6:1 which exceeds the maximum 1:1 floor space ratio permitted for the site under Clause 33 of Marrickville Local Environmental Plan 2001. The application was accompanied by an objection to the non-compliance with the development standard in accordance with the requirements of State Environmental Planning Policy No. 1 - Development Standards which is considered to be well founded and supportable.

Although a significant undersupply of car parking spaces is proposed with regard to the car parking requirements prescribed by Marrickville Development Control Plan No. 19 - Parking Strategy and State Environmental Planning Policy (Affordable Rental Housing) 2009, the proposal is considered acceptable for the reasons outlined in this report.

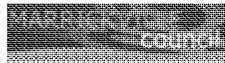
The application was notified in accordance with Council's notification policy and twelve (12) submissions were received.

The application is considered unsupportable given that the proposed development fails to satisfy a number of the heritage conservation incentives provisions in Clause 54 (1) of Marrickville Local Environmental Plan 2001 and is therefore prohibited.

The applicant has been consistently been advised throughout the process including the formal prelodgement meeting that the issue of permissibility under Marrickville Local Environmental Plan 2001 was fatal to the proposal. The applicant was advised that it would be prudent to lodge any development application for the proposal after the gazettal of draft Marrickville Local Environmental Plan 2011 as the Draft Plan contains heritage conservation incentives less onerous than those currently applicable under Clause 54 of MLEP 2001 and that under the draft Plan, the entire building is listed as a heritage item whereas under MLEP 2001, only the Australia Street façade is listed as a heritage item. The applicant elected to lodge the subject development before the gazettal of draft Marrickville Local Environmental Plan 2011.

The proposed development is prohibited under the Light Industrial zone provisions applying to the land under Marrickville Local Environmental Plan 2001 and the proposed development does not satisfy the heritage conservation incentives provisions in Clause 54 (1) of Marrickville Local Environmental Plan 2001. In view of the circumstances, refusal of the application is recommended.





## Assessment Report 43-45 AUSTRALIA STREET, CAMPERDOWN

### PART A - PARTICULARS

**Location:** The subject property is situated on the western side of Australia Street, Camperdown and occupies the block bounded by Australia Street, Derby Place, Denison Street and Derby Street.

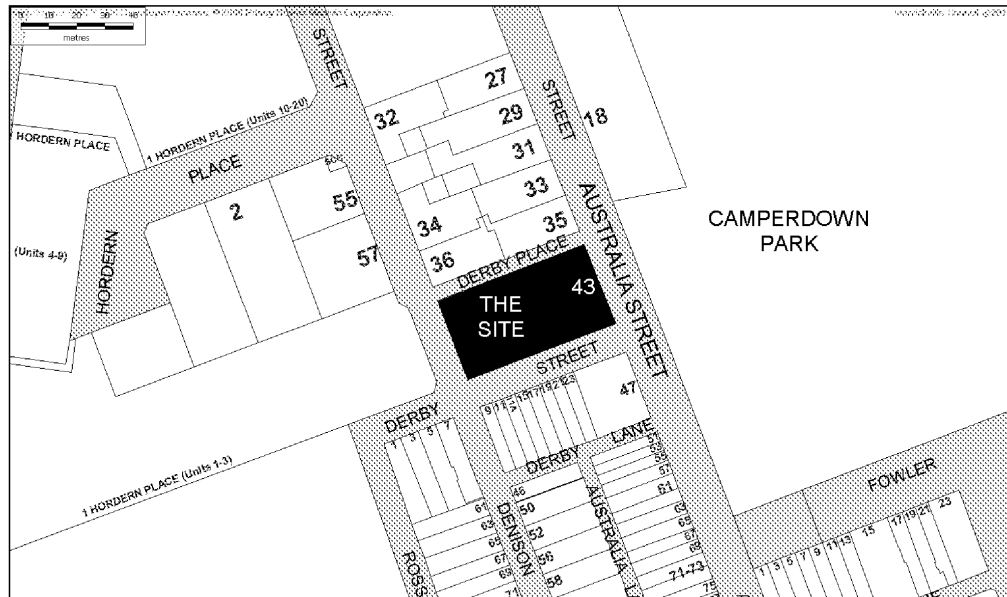


Image 1: Location Map

**D/A No:** 201100437

**JRPP Reference No:** 2011SYE099

**Application Date:** 9 September 2011. The following additional information was submitted:

18 October 2011:

- Phase 2 Environmental Site Assessment.

16 November 2011:

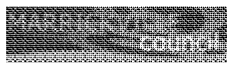
- Economic Analysis of permissible uses;
- Heritage Assessment of permissible uses;
- SEPP 65 Design Verification Statement and Assessment; and
- Amended Plans.

**Proposal:** To carry out alterations and additions to the existing building on the site for its adaptive reuse for the purpose of student accommodation comprising a total of 12 multiple occupancy rooms and 111 single occupancy rooms, to accommodate up to a total of 154 residents, and a manager's residence pursuant to the heritage conservation incentives provisions contained in Clause 54 of Marrickville Local Environmental Plan 2001.

**Applicant:** Ceerose Pty Ltd

**Estimated Cost:** \$11,180,757

**Zoning:** Light Industrial



Assessment Report  
**43-45 AUSTRALIA STREET, CAMPERDOWN**

**PART B - THE SITE AND ITS CONTEXT**

**Improvements:** A three (3) storey building currently occupies the entire site.



*Image 2: The site as viewed from the corner of Australia Street and Derby Place*



*Image 3: The site as viewed along Derby Place*





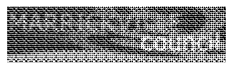
Assessment Report  
43-45 AUSTRALIA STREET, CAMPERDOWN



*Image 4: The site as viewed along Denison Street*



*Image 5: The site as viewed from the corner of Denison Street and Derby Street*



**Assessment Report**  
**43-45 AUSTRALIA STREET, CAMPERDOWN**

**Current Use:** Vacant

**Prior Determinations:** Determination No. 11824, dated 31 August 1988, approved an application to carry out alterations to the premises to form Association premises for the N.S.W Nurses' Association, including offices, meeting rooms and associated storage.

Determination No. 12588, dated 2 November 1989, approved an application to erect an illuminated projecting wall sign measuring 2.4 metres x 0.5 metres reading 'Royal Australian Nursing Federation, New South Wales Nurses Association'.

Determination No. 200200435, dated 16 August 2002, approved an application to demolish the existing cooling tower and install new air conditioning equipment and access stairs.

Determination No. 200500006, dated 5 April 2005, approved an application to carry out alterations to the premises to provide disabled access to Australia Street, a disabled toilet facility and disabled vertical lift and reception area.

**Environment:** A mix of industrial, educational and residential (under construction) to the north and west, open space to the east and residential to the south, south east and south west.

**PART C - REQUIREMENTS**

**1. Zoning**

<i>Is the development permissible in the zone?</i>	No
<i>Do the premises enjoy existing use rights?</i>	No
<i>Is the development permissible under Clause 45 of MLEP 2001?</i>	No
<i>Is the development permissible under Clause 54 of MLEP 2001?</i>	Only if the development satisfies all the requirements of the clause)

**2. Development Standards (Mandatory Requirements):**

<b>Type</b>	<b>Required</b>	<b>Proposed</b>
Floor space ratio (max)	1:1	2.6:1

**3. Departures from Council's Codes and Policies:**

<b>Type</b>	<b>Required</b>	<b>Proposed</b>
Car Parking	Fifteen (15) for residents	None

**4. Community Consultation:**

Required: Yes (newspaper advertisement, on-site notice and resident notification)  
Submissions: Twelve (12) submissions received.

**5. Other Requirements:**

ANEF 2029 Affection: 20-25 ANEF

**PART D - ASSESSMENT**

**1. The Site and Surrounds**

**Assessment Report**  
**43-45 AUSTRALIA STREET, CAMPERDOWN**

The subject property is legally described as Lot 1 in Deposited Plan 818033 and is known as 43-45 Australia Street, Camperdown. The subject property is situated on the western side of Australia Street, Camperdown and occupies the block bounded by Australia Street, Derby Place, Denison Street and Derby Street.

The property has frontages to Australia Street and Denison Street measuring approximately 30.4 metres and a depth and boundaries to Derby Street and Derby Place measuring 55.8 metres creating a total site area of approximately 1,695sqm. The site has a cross fall of approximately 3.3 metres from its south western corner to its north eastern corner.

A three (3) storey building currently occupies the entire site.

The surrounding area is characterised by a mixture of industrial, educational and residential uses under construction to the north and west, open space to the east and residential to the south, south east and south west.

**2. The Proposal**

The proposal seeks approval to adaptively reuse the existing building for the purposes of student accommodation, comprising a total of 12 multiple occupancy rooms and 111 single occupancy rooms over three (3) levels, to accommodate up to a total of 154 residents, and a manager's residence pursuant to the heritage conservation incentives provisions contained in Clause 54 of Marrickville Local Environmental Plan 2001. The development proposes the creation of an atrium to form a light well and construction of a partial basement for car, motorcycle and bicycle parking, waste storage, servicing and plant, and also includes alterations to the façade and roof.

The development consists of two (2) accommodation types including a self-contained 'studio' layout (single occupancy rooms) with those rooms ranging in area from 19.8sqm to 23.7sqm and a 3/4-bedroom apartment layout (shared multi occupant dwelling) typically measuring approximately 90sqm. Each 'studio' is proposed to be furnished with a single bed, desk, 240L refrigerator/freezer, microwave, cook-top and built-in storage of approximately 1.95 cubic metres contained in overhead compartments. Each 'apartment' comprises either 3 bedrooms where an accessible room is proposed or 4 bedrooms in other cases with bedrooms accessible via a shared living room and kitchen area.

A reception area is located in the publically accessible lobby off Australia Street which is proposed to be operated between the hours of 8.00am to 5.00pm daily. Access to the building outside those hours is intended to be by authorised means only utilising a security card/swipe/key system. The application proposes a building manager or an authorised staff member to be available on-call 24 hours a day.

A separate accommodation space of 43.5sqm is provided for the on-site manager in the form of a one (1) bedroom self-contained dwelling located close to the reception area on the ground floor. That room is also provided with its own private courtyard area measuring 12.5sqm for the exclusive use by the on-site manager.

A number of communal open space areas and common rooms are proposed throughout the building including the main area of communal open space and a recreation room on the ground floor along with two (2) common rooms on each of the levels above. The proposed atrium provides solar access and natural ventilation throughout the building and to those areas of communal open space.

The applicant advised that the accommodation would be marketed at the expanding tertiary student accommodation market, particularly for the various tertiary institutions in the area.

The proposal utilises the envelope and materials of the existing heritage listed building and reinterprets them in an adaptive re-use. The creation of the internal atrium facilitates the adaptive



**Assessment Report**  
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reuse of the building whilst preserving its heritage significance. A half-basement is proposed to be excavated below the ground floor of the rear portion of the building to Denison Street, accessed via the Derby Place frontage. The basement provides two (2) car parking spaces, one (1) car/van/ute loading space, thirty one (31) motorbike spaces and fifty (50) bicycle spaces. The operator of the premises intends to promote the use of motorcycles and bicycles as a principal means of transport for residents.

A copy of the plans and elevations of the proposed development submitted with the application are reproduced below:





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43-45 AUSTRALIA STREET, CAMPERDOWN

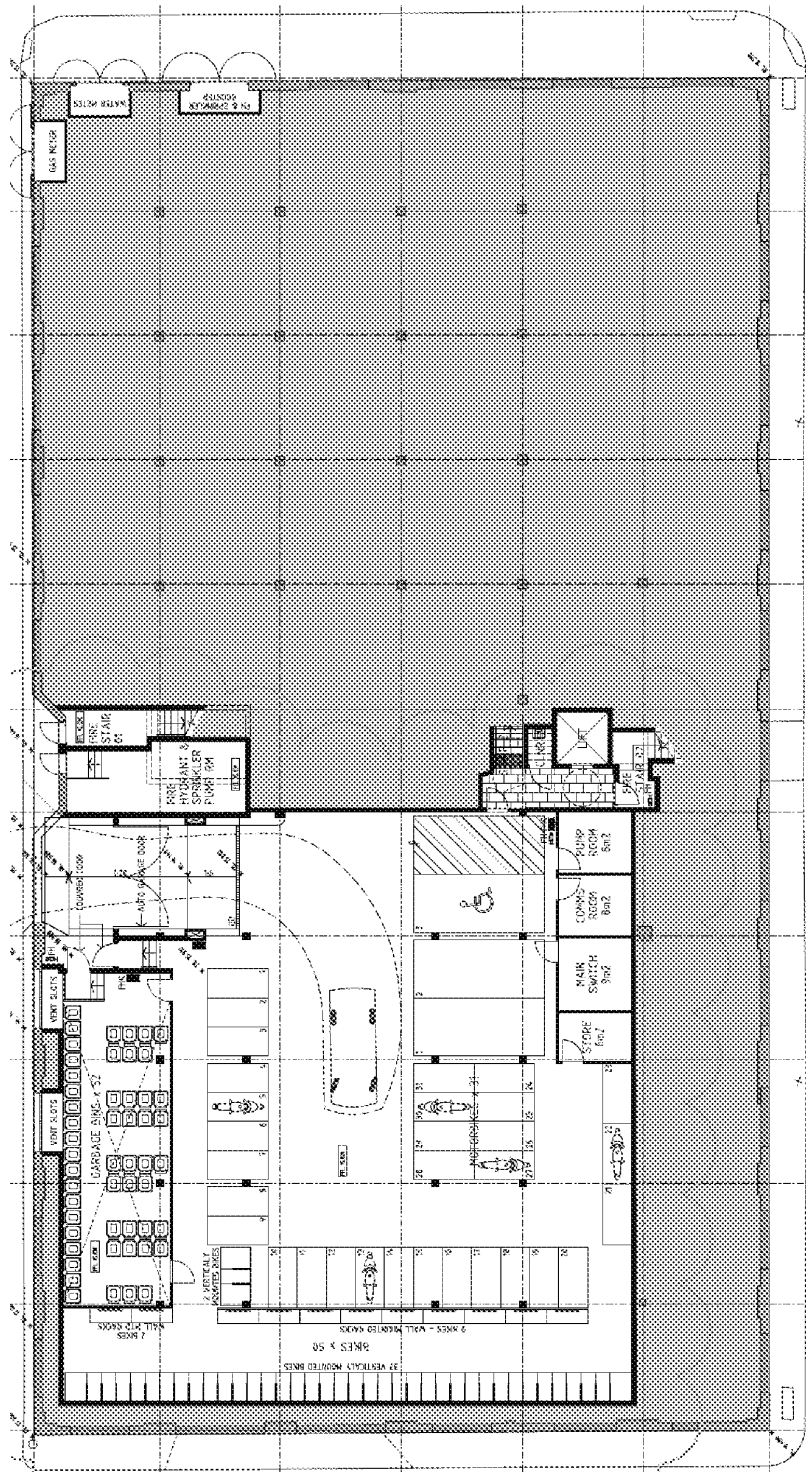


Image 6: Proposed Basement Floor Plan



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***43-45 AUSTRALIA STREET, CAMPERDOWN***

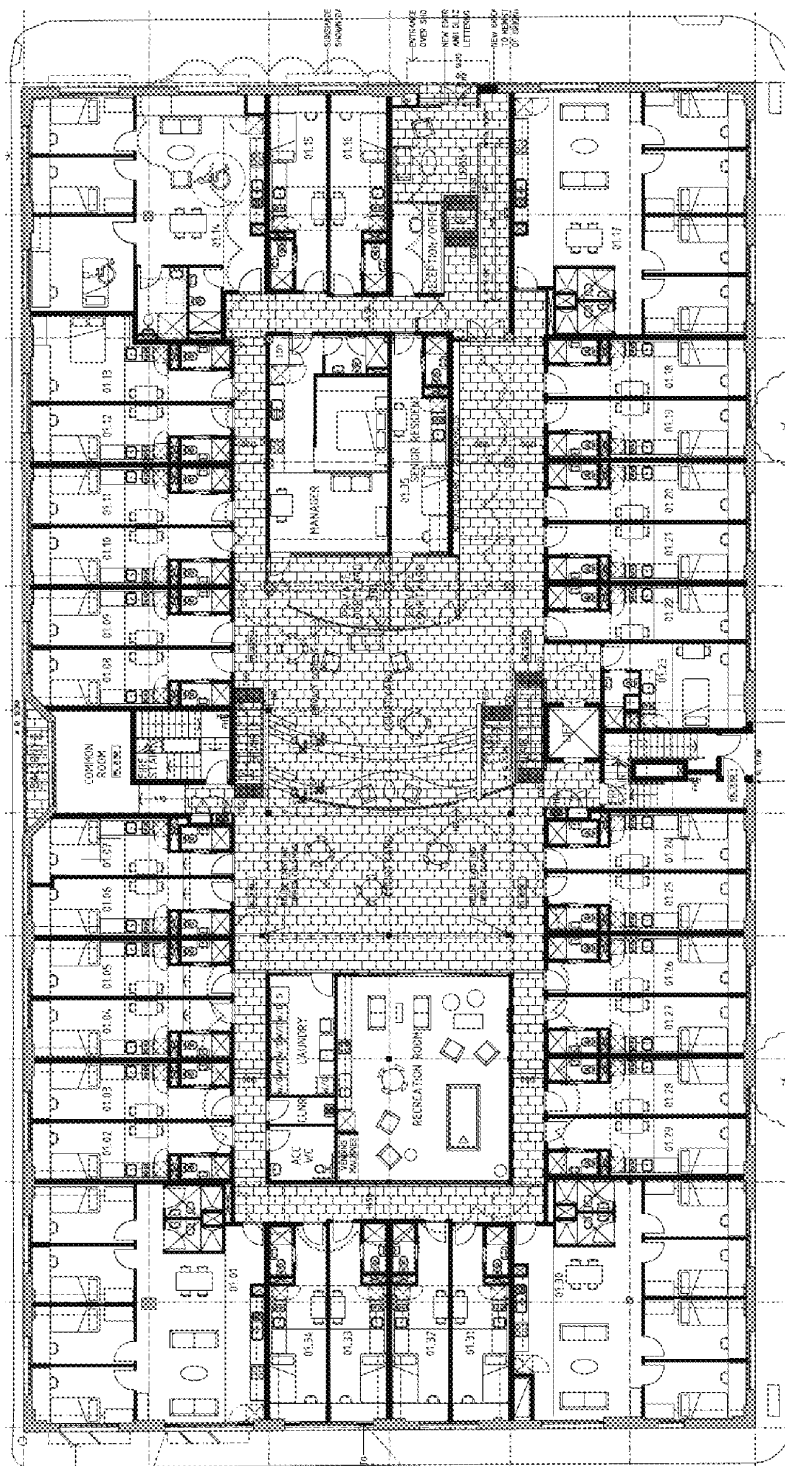
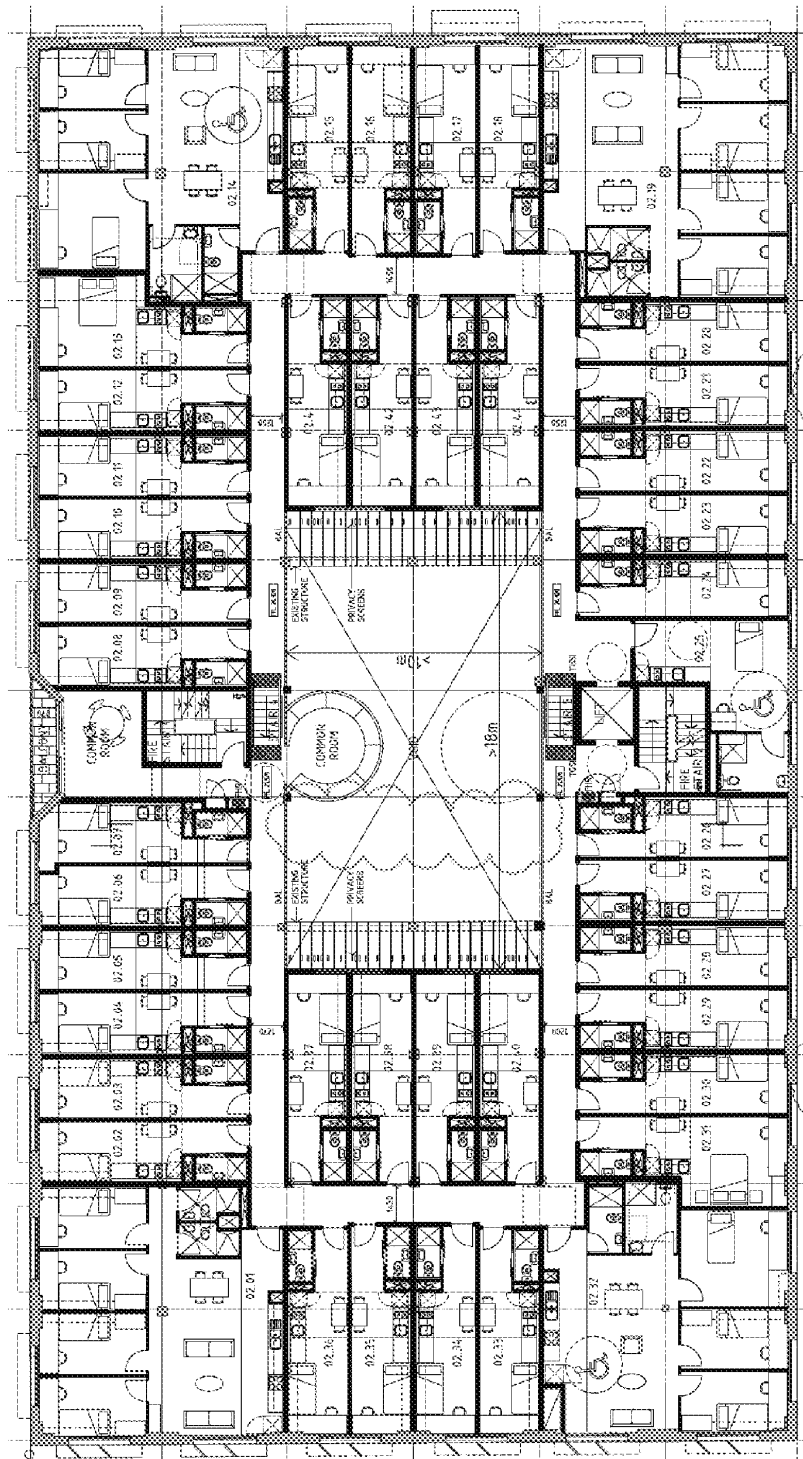


Image 7: Ground Floor Plan





**Assessment Report**  
***43-45 AUSTRALIA STREET, CAMPERDOWN***



*Image 8: First Floor Plan*



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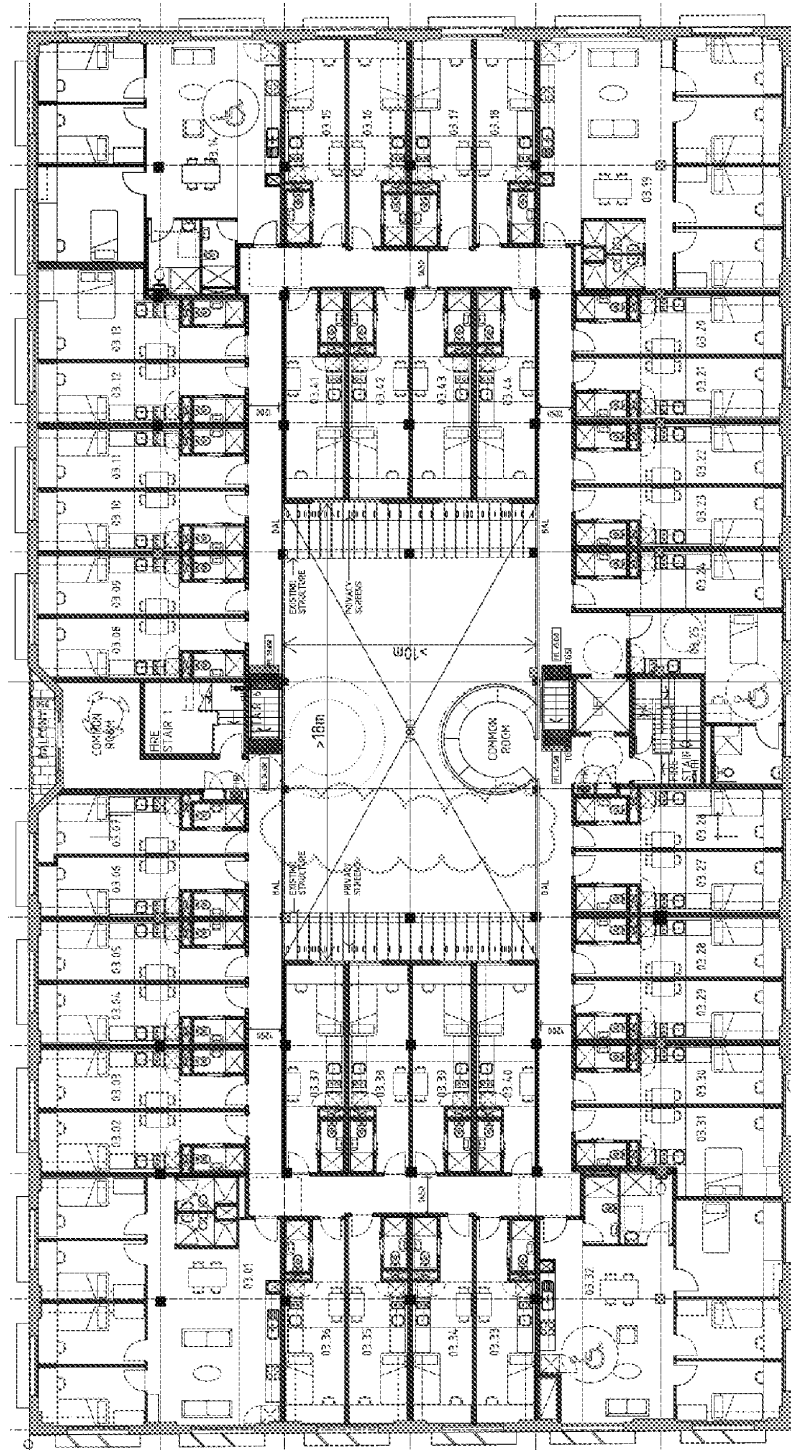


Image 9: Second Floor Plan



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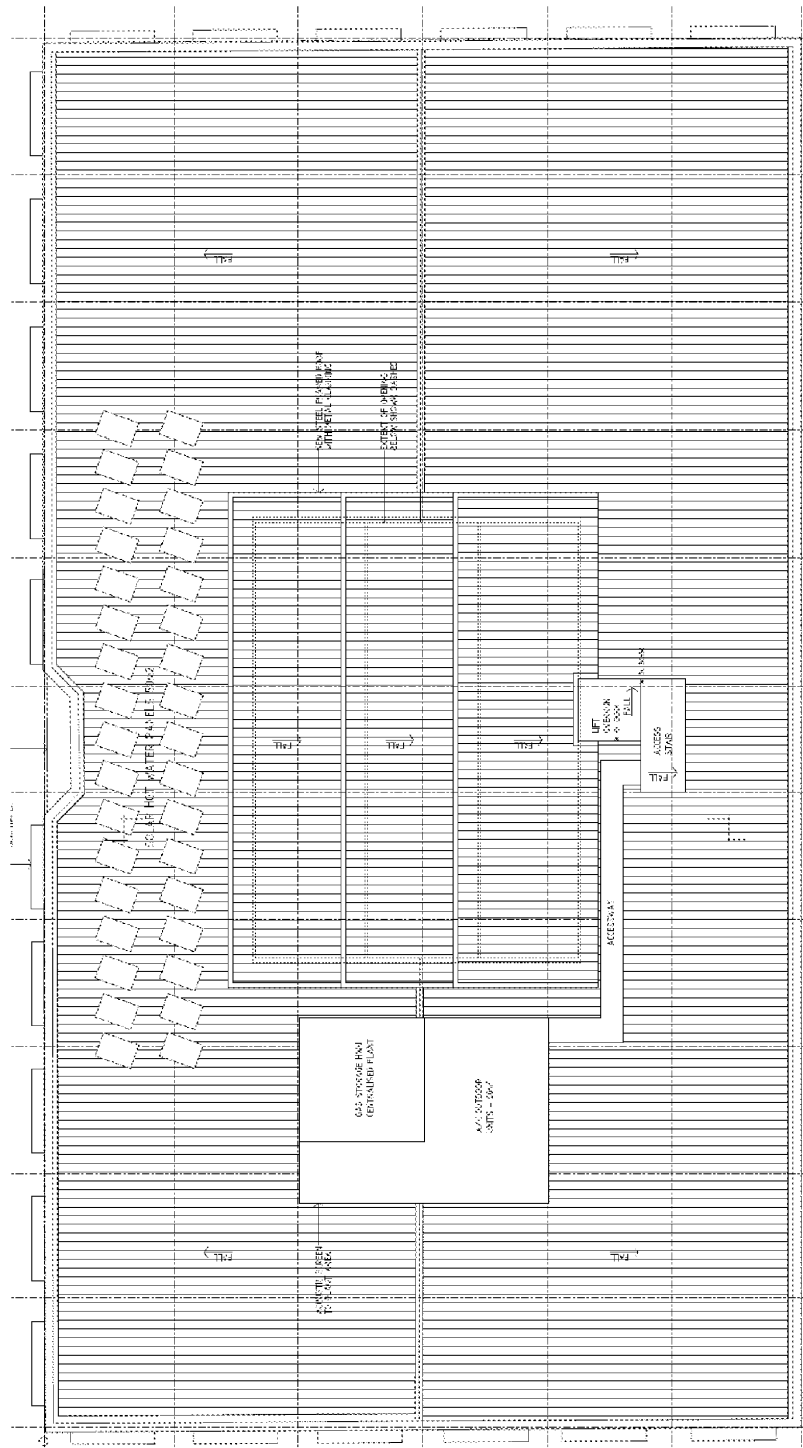
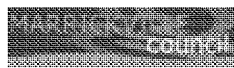


Image 10: Roof Plan



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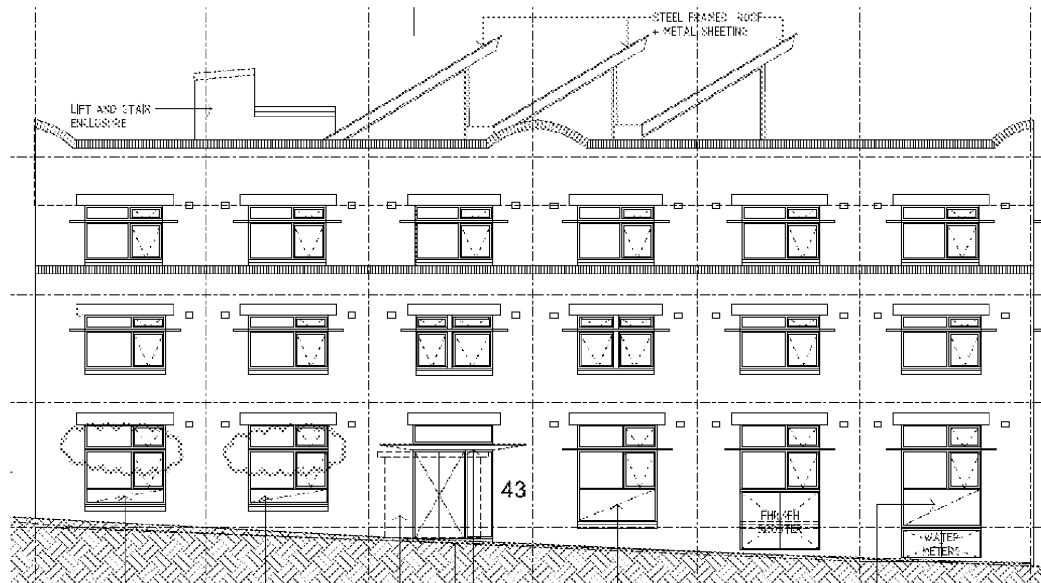
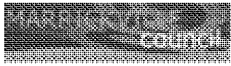


Image 11: Australia Street Elevation



Image 12: Denison Street Elevation



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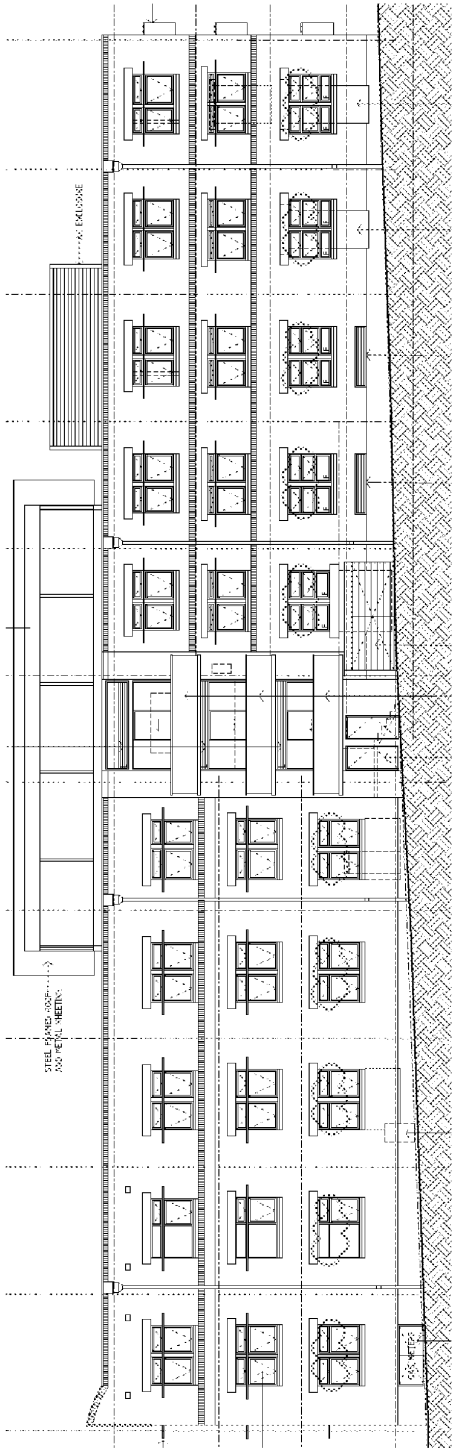


Image 13: Derby Place Elevation

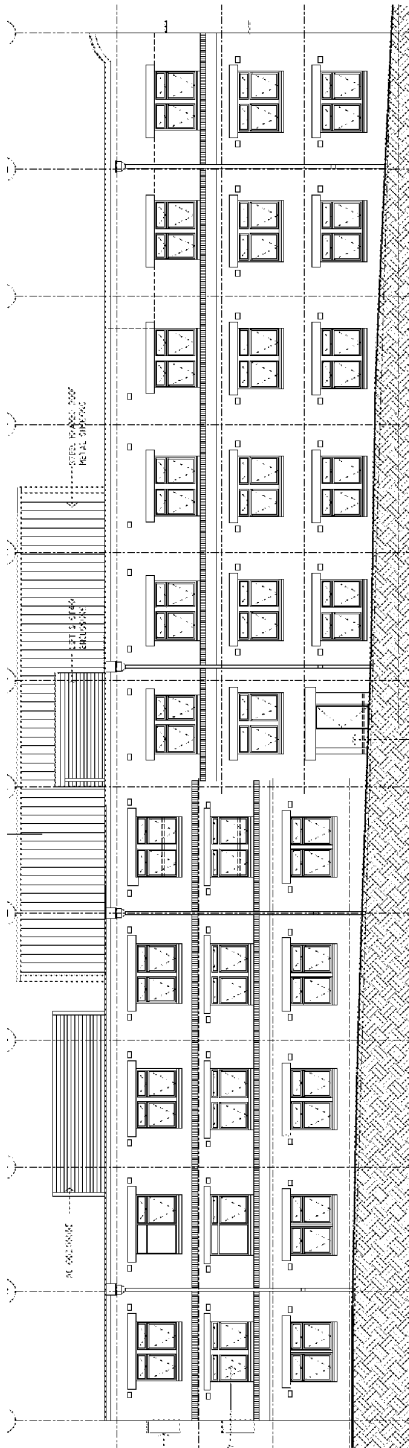


Image 14: Derby Street Elevation





Assessment Report  
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Image 15: External Photomontage of Australia Street Elevation



Image 16: Internal Photomontage of Internal Courtyard



**Assessment Report**  
**43-45 AUSTRALIA STREET, CAMPERDOWN**

### 3. Planning Instruments

The following planning instruments apply to the development:

- (i) State Environmental Planning Policy No. 1 - Development Standards;
- (ii) State Environmental Planning Policy No. 55 - Remediation of Land;
- (iii) State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development;
- (iv) State Environmental Planning Policy (Major Development) 2005;
- (v) State Environmental Planning Policy (Affordable Rental Housing) 2009\*;
- (vi) Marrickville Local Environmental Plan 2001;
- (vii) Draft Marrickville Local Environmental Plan 2011;
- (viii) Marrickville Development Control Plan No. 19 - Parking Strategy;
- (ix) Marrickville Development Control Plan No. 27 - Waste Management;
- (x) Marrickville Development Control Plan No. 29 - Contaminated Land Policy and Development Controls;
- (xi) Marrickville Development Control Plan No. 31 - Equity of Access and Mobility;
- (xii) Marrickville Development Control Plan No. 32 - Energy Smart Water Wise;
- (xiii) Marrickville Development Control Plan No. 35 - Urban Housing (Volume 2); and
- (xiv) Marrickville Development Control Plan No. 38 - Community Safety.

\* The provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 do not technically apply to this proposal however have been used to guide the assessment of the application in the absence of Council's own controls for this development type.

### 4. State Environmental Planning Policy No. 1 - Development Standards

A maximum floor space ratio (FSR) of 1:1 applies to developments on Light Industrial zoned land under Clause 33 of Marrickville Local Environmental Plan 2001 (MLEP 2001). Although a specific FSR control is prescribed for boarding houses under Clause 33, boarding house development are a prohibited use under the Light Industrial zoning provisions applying to the land and so the reduced boarding house FSR would not reasonably apply to the proposal. Information submitted with the application indicates that the proposed development has a gross floor area (GFA) of approximately 4,237.5sqm and the subject property has a total site area of approximately 1,695sqm and the proposed development therefore has a FSR of 2.5:1 which exceeds the maximum FSR of 1:1 prescribed for the site under Clause 33 of MLEP 2001. Council's assessing officer has calculated the GFA of the proposal to be 4,410sqm which equates to a FSR of 2.60:1.

As the FSR control is a development standard under an Environmental Planning Instrument, an objection to the non-compliance with the development standard was submitted with the application in accordance with the requirements of State Environmental Planning Policy No. 1 - Development Standards (SEPP 1). The applicant's SEPP 1 objection to the FSR development standard is discussed later in this report under the heading "Floor Space Ratio (Clause 33)".

### 5. State Environmental Planning Policy No. 55 - Remediation of Land and Marrickville Development Control Plan No. 29 - Contaminated Land Policy and Development Controls

The history of land use for the site has been considered as an indicator for potential contamination of the site. According to Council records, the site is known to have been used in the past for industrial uses which indicates that the subject site could potentially be contaminated.

Pursuant to State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55), the NSW Department of Planning and Infrastructure's guidelines "Managing Land Contamination - Planning Guidelines for SEPP 55 - Remediation of Land" and Marrickville Development Control Plan No. 29 - Contaminated Land Policy and Development Controls (DCP 29), a Preliminary Site





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Investigation Report is required to be provided with the application to ascertain whether the site is contaminated.

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. Marrickville Development Control Plan No. 29 - Contaminated Land Policy and Development Controls (DCP 29), provides controls and guidelines for remediation works. SEPP 55 requires that remediation works must be carried out in accordance with a Remediation Action Plan (RAP) as approved by the consent authority and any guidelines enforced under the Contaminated Land Management Act 1997.

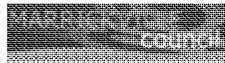
Under the provisions of SEPP 55 and DCP 29, Council must not consent to the carrying out of any development on land unless:

- “(a) it has considered whether the land is contaminated, and
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”

An Environmental Site Assessment, prepared by Environmental Investigations, was submitted for the proposal which concludes and recommended the following having regard to the potential contamination of the site:

- “Based on the findings of this Environmental Site Assessment, it was concluded that:*
- *The site was historically occupied predominantly by a multistorey storey flat, metal roofed structure overlaying the entire site area of predominantly light industrial/commercial uses since the 1930s at least;*
  - *The site was free of statutory notices issued by the OEHL [Office of Environment and Heritage] under the Contaminated Land Management Act 1997 and the Protection of the Environment Operations Act 1997;*
  - *There was no evidence to suggest that a UST [Underground Storage Tank], AST [Aboveground Storage Tank], or similar, had been present on the property;*
  - *Soil sampling and analysis were conducted at six test bore locations (BH1-BH6) down to a maximum depth of 1.45 metres BGL [Below Ground Level], across the site covering the Areas of Environmental Concerns (AECs);*
  - *The sub-surface layers comprised of fill materials consisting of light grey/brown to grey/red medium to soft silty clay with minor coarse gravel, brick and crushed concrete fragments, ranging in thickness between 0.2 metres and 0.9 metres BGL; overlying natural mottled brown/orange silty clay, red and grey moderate plasticity, slightly moist;*
  - *Groundwater was not encountered at any test bore location drilled to maximum depths of 1.45 metres BGL;*
  - *Low concentrations of heavy metals were found in all tested samples; however, these results were found to be within the adopted SILs [Soil Investigation Levels] and PPILs [Phytotoxicity-based Investigation Levels];*
  - *Low concentrations of TPHs [Total Petroleum Hydrocarbons] heavy fractions were identified in three of the six tested samples; however these results were found to be well within the adopted criteria. BTEX [Benzene, Toluene, Ethyl benzene, Xylene] compounds were not in any of the tested samples, with all laboratory quantitation limits being within the adopted criteria;*
  - *Trace concentrations of PAHs [Polycyclic Aromatic Hydrocarbons] compounds were identified in some of the tested samples; however, these results were found to be within the adopted (2006 Second Edition) Column 4 - NEHL-D Health Based Investigation Levels;*
  - *No detectable concentrations of any of the screened OCPs [Organochlorine Pesticides], PCBs [Polychlorinated Biphenyls] or OPPs were identified in the tested*





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- composite samples, with all laboratory quantitation limits being within the corresponding SILs after adjustment for potential dilution due to sample compositing;
- Asbestos not detected in any of the tested samples;
- Review of the Botany Bay Acid Sulfate Soil Risk Map (1:25,000 scale; Murphy, 1997), in conjunction with the Guidelines for the Use of Acid Sulfate Soil Risk Maps (Naylor et al., 1998), indicated that the site lies within an area of "no known occurrences of acid sulfate soil materials", therefore Acid Sulfate Soils are unlikely to occur on site during the current proposed development. Based on the findings of the subsequent field investigation, the site fail to demonstrated field indicators for actual and potential ASSs listed in the ASSMAC (1998) manual (Ref. Table 2.3, Section 2, ASSs Assessment Guidelines).

*In view of the above findings, and with reference to the DECCW Guidelines, it is considered that the site suitable for the proposed land use.*

*If site soils are to be excavated and disposed from the site, then these soils should be classified in accordance with the DECCW (2009) Waste Classification Guidelines. Any soils to be imported onto the site for the purpose of back-filling excavated areas will also require validation testing in accordance with the relevant NSW EPA/DECCW regulatory guidelines to confirm soil suitability for the proposed land use.*

*It should be noted that a prior arrangement with the destination site and/or relevant authorities should be obtained prior to the disposal of any material."*

It is evident from the above that the site is not contaminated and the site is suitable for the proposed use. As excavation for the half basement level is proposed, conditions to the effect of the above comments should be imposed on any consent granted.

**6. State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development**

**(i) State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development**

State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development (SEPP 65) prescribes ten design quality principles to guide architects designing residential flat buildings and to assist councils in assessing such developments. The ten principles relate to key design issues including the context, scale, built form and building density, resource, energy and water efficiency, landscape design, amenity, safety/security, social impacts and aesthetics.

Pursuant to the definitions contained in SEPP 65, a residential flat building is defined as follows:

*"residential flat building means a building that comprises or includes:*

- (a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and*
- (b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops),*

*but does not include a Class 1a building or a Class 1b building under the Building Code of Australia."*

The proposed building consists of three (3) storeys and contains a total of 12 multiple occupancy rooms and 111 single occupancy rooms, to accommodate up to a total of 154 residents, and a manager's residence Accordingly, SEPP 65 applies to the proposed development and consequently consideration of the ten design principles contained in SEPP 65 and the Residential Flat Design Code is required.



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As required by the SEPP, a Design Verification Statement was submitted with the application indicating that a registered Architect, Allen Jack and Cottier, directed the design of the proposed development and that the proposal generally satisfies the design quality principles set out in Part 2 of SEPP 65.

A separate Design Statement, prepared by Daniel McNamara Planning Solutions, was submitted with the application and provides an assessment of the proposal with respect to the ten design principles contained in SEPP 65 and is generally considered acceptable having regard to those principles.

(ii) Residential Flat Design Code

The Residential Flat Design Code (RFDC) “sets broad parameters for good residential flat design by illustrating the use of development controls and consistent guidelines”. The Code provides guidelines that set benchmarks for better practice in the planning and design of residential flat buildings to achieve environmental sustainability, improved energy efficiency and residential amenity and higher design quality to improve the presentation of the building to the street. The RFDC achieves this by providing controls to ensure that developments respond to their local context, and provide a suitable site analysis and quality design.

Whilst the majority of the provisions contained in the RFDC are generally covered by Council's various Development Control Plans and are considered as part of the assessment of the application presented throughout this report, the RFDC contains some provisions which are not specifically addressed in Council's various Development Control Plans. Each of those provisions is discussed under the respective headings below:

**Building Depth**

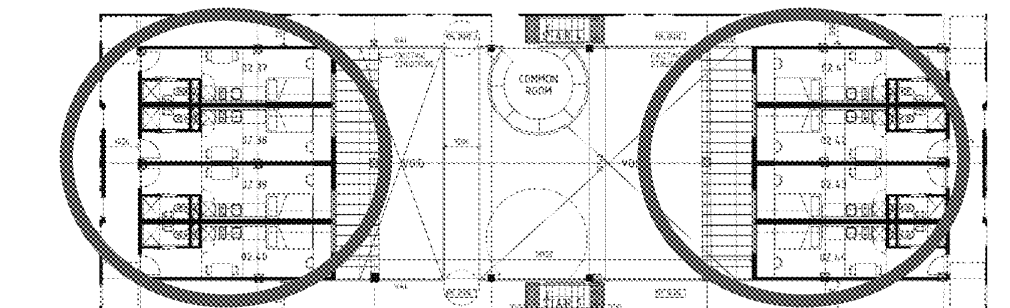
The RFDC suggests that the depth of a residential flat building should be limited to between 10 metres to 18 metres and that a proposal for a building greater than 18 metres in width would need to demonstrate how satisfactory daylight and natural ventilation can be achieved.

The SEPP 65 Design Statement accompanying the application provides the following comments in relation to the building depth:

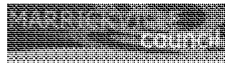
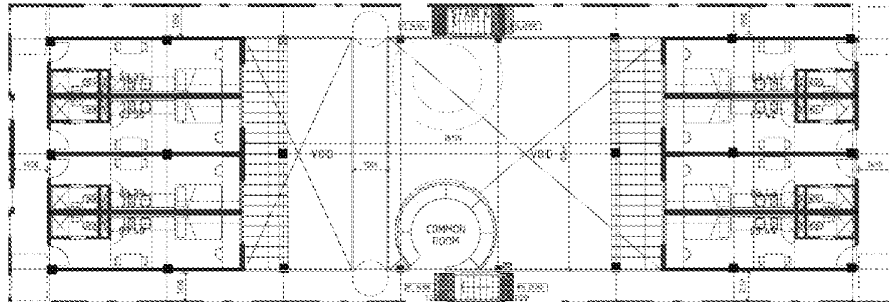
*“The building depth is determined by the footprint of the existing building. The creation of a central atrium space facilitates cross flow ventilation for the majority of units and bedrooms within the development.”*

Given that the application proposes to adaptively reuse the existing building, it is considered onerous to require strict compliance with the abovementioned building depth control.

Notwithstanding the above some concerns were raised with the original proposal having regard to the natural ventilation and privacy for the proposed rooms situated in the central atrium area of the building as highlighted in the reproduced plans below:



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On face value, the rooms could appear to receive limited natural ventilation given that they are positioned to face the internal atrium space as opposed to having windows orientated to the external walls of the building. However, an assessment of the cross ventilation aspect of the proposal accompanied the application which adequately details that the building would generally be able to achieve suitable levels of natural ventilation, including to the rooms indicated above (refer to Image 19 reproduced later in this report).

In relation to the privacy concerns raised, the following amendments were made to the proposal to address the concerns:

- The elevated footbridges traversing the atrium were deleted from levels 2 and 3 to improve privacy for occupants of the rooms with windows facing the atrium. This amendment has created a window-to-window separation of 18.5 metres for rooms across the atrium space which exceeds the 12 metre minimum 'building separation' requirement of the RFDC. This separation is further increased by the depth of desks that are proposed to be positioned in front of the windows; and
- 1.5 metre balustrades are provided to the common walkways along with privacy screening being provided to the windows of all rooms with windows facing the atrium which would facilitate appropriate visual privacy.

Having regard to the above, the amendments made to the proposal are considered to facilitate the provision of suitable levels of amenity for future occupants of the rooms.

***Building Separation***

The RFDC suggests that for buildings up to 4 storeys and/or 12 metres in height, a building separation of 12 metres between habitable rooms should be observed. The proposed rooms are suitably separated to achieve compliance with the above requirement. The internal layout and positioning of rooms provides for at least 12 metre separation between the rooms from north to south and east to west.

***Apartment Layout (Minimum Sizes)***

The RFDC suggests that the minimum size of a studio sized one bedroom dwelling should be 38.5sqm. However, the proposal has been designed as a boarding house by layout and is not designed as a traditional residential flat building. Accordingly, this provision is not considered to be relevant to the proposal. The room sizes are discussed later in this report under the heading "State Environmental Planning Policy (Affordable Rental Housing) 2009".



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**Apartment Layout (Depth)**

The RFDC suggests that the maximum depth of an apartment should not exceed 8 metres from a window. A number of the single occupancy rooms have a depth of up to 8.2 metres from the glass line of the window which would not comply with the above requirement. However, the non-compliance is considered to be acceptable given that it is minimal and equates to only 200mm.

Overall, the proposed development is considered acceptable having regard to the provisions and requirements of SEPP 65 and the RFDC.

**7. State Environmental Planning Policy (Major Development) 2005**

A Detailed Cost Plan, prepared by Heymann-Cohen Pty Limited, accompanied the Development Application which estimated the cost of the proposed development at \$11,180,757. As the Capital Investment Value of the proposed development is greater than \$10 million, the proposed development constitutes a Regional Development and is subject to the provisions contained in Part 3 of State Environmental Planning Policy (Major Development) 2005 (the Major Development SEPP). Therefore, the consent authority for the purpose of determining the subject application is the Sydney East Region Joint Regional Planning Panel.

The Detailed Cost Plan included estimates of the works required to carry out the proposed development according to the definition of *capital investment value* as defined in the Environmental Planning and Assessment Regulation, 2000 as follows:

*“capital investment value of a development or project includes all costs necessary to establish and operate the project, including the design and construction of buildings, structures, associated infrastructure and fixed or mobile plant and equipment, other than the following costs:*

- (a) amounts payable, or the cost of land dedicated or any other benefit provided, under a condition imposed under Division 6 or 6A of Part 4 of the Act or a planning agreement under that Division,*
- (b) costs relating to any part of the development or project that is the subject of a separate development consent or project approval,*
- (c) land costs (including any costs of marketing and selling land),*
- (d) GST (within the meaning of A New Tax System (Goods and Services Tax) Act 1999 of the Commonwealth).”*

The author of the Detailed Cost Plan, Heymann-Cohen Pty Limited, is a company founded by Josh Heymann and Richard Cohen who are both qualified Quantity Surveyors registered with the Australian Institute of Quantity Surveyors. There is therefore no concern raised with the quoted estimated capital investment value of the proposed development.

**8. State Environmental Planning Policy (Affordable Rental Housing) 2009**

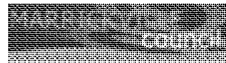
State Environmental Planning Policy (Affordable Rental Housing) 2009 (the Affordable Rental Housing SEPP) provides guidance for design and assessment of boarding house developments. The SEPP, which commenced operation on 31 July 2009, provides controls relating to various matters including height, floor space ratio, landscaped area, solar access and private open space requirements. The controls relating to boarding houses are contained within Division 3 of the Affordable Rental Housing SEPP. The main design parameters are addressed below:

- (i) Land to which Division applies (Clause 26)

Clause 26 of the Affordable Rental Housing SEPP prescribes what land Division 3 (containing the Boarding House provisions of the SEPP) applies to and includes the following land use zones or their equivalent:

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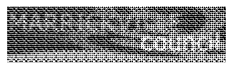
- (a) Zone R1 General Residential,
- (b) Zone R2 Low Density Residential,
- (c) Zone R3 Medium Density Residential,
- (d) Zone R4 High Density Residential,
- (e) Zone B1 Neighbourhood Centre,
- (f) Zone B2 Local Centre,
- (g) Zone B4 Mixed Use."

The land is currently zoned Light Industrial under the zoning provisions of Marrickville Local Environmental Plan 2001 (MLEP 2001) which is equivalent to the IN2 Light Industrial zone. Therefore, Division 3 of the Affordable Rental Housing SEPP does not apply to the subject land. Whilst the provisions in Division 3 of the SEPP do not technically apply to the subject land, it is considered appropriate to use the provisions to guide the assessment of the application in the absence of Council's own controls for this development type.

(ii) Standards that cannot be used to refuse development consent (Clause 29)

Clause 29 of the Affordable Rental Housing SEPP prescribes that a consent authority must not refuse consent to a development application for a boarding house development if the development satisfies the following numerical controls:

Control	Standard	Proposed	Complies?
Density	(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or (b) if the development is on land within a zone in which no residential accommodation is permitted - the existing maximum floor space ratio for any form of development permitted on the land. 1:1 (max)	2.6:1 4,410sqm GFA/ 1,695sqm site	No See comments below
Building Height	If the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land.	No height control	Yes See comments below
Landscaped Area	Landscape treatment of the front setback area is to be compatible with the streetscape in which	The front setback is not proposed to be landscaped which is consistent with other adjoining sites along Australia Street.	Yes



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Control	Standard	Proposed	Complies?
	the building is located.		
Solar Access	Where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9.00am and 3.00pm in mid-winter.	Three (3) of the proposed six (6) communal living rooms would receive the minimum 3 hours solar access between 9.00am and 3.00pm at the winter solstice on 21 June.	Yes
Private Open Space	(i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers;	(i) A communal open space area measuring 380.5sqm with minimum dimensions of 3 metres is proposed on the ground floor of building to service the outdoor recreation needs of students.	Yes
	(ii) if accommodation is provided on site for a boarding house manager - one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation.	(ii) A private open space area measuring 12.5sqm with a minimum dimension of 2.5 metres is provided adjacent to the on-site manager's room.	Yes
Parking	(i) In the case of development in an accessible area - <b>at least</b> 0.2 parking spaces for each boarding room.	(ii) The site is within an accessible area and includes a total of one hundred and fifty four (154) boarding rooms within the proposed boarding house which generates a demand for thirty one (31) car parking spaces to be provided. The proposal includes the provision of two (2) car parking spaces as part of the application.	<b>No</b> See comments below
	(ii) In the case of development not in an accessible area - <b>at least</b> 0.4 parking spaces for each boarding room.	(ii) The site is within an accessible area.	Not applicable
	(iii) In the case of any	(iii) The proposal includes the	Yes

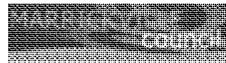
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Control	Standard	Proposed	Complies?
	development - <b>not more than 1</b> parking space for each person employed in connection with the development and who is resident on site.	provision of one (1) parking space for the on-site manager.	
Accommodation size	If each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:  (i) 12 square metres in the case of a boarding room intended to be used by a single lodger; or (ii) 16 square metres in any other case.	See discussion below.	Yes See comments below

Table 1: Affordable Rental Housing SEPP Compliance Table

**Density - Floor Space Ratio**

The Affordable Rental Housing SEPP prescribes the following controls in relation to density and floor space ratio (FSR):

*"A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:*

- (a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or*
- (b) if the development is on land within a zone in which no residential accommodation is permitted - the existing maximum floor space ratio for any form of development permitted on the land..."*

The subject land is zoned Light Industrial under Marrickville Local Environmental Plan 2001. Under Clause 33 (1) of MLEP 2001, the maximum permitted FSR for developments within a Light Industrial zone is 1:1. Boarding houses are specifically prohibited within the Light Industrial zone. It should be noted that Clause 33 (3) of MLEP 2001 states *"Despite subclause (1), the maximum floor space ratio of a boarding house is 0.7:1."*

With regard to point (a) above, the Light Industrial zone permits residential accommodation in the form of dwelling houses and multi unit housing where that residential accommodation is used in conjunction with a use that is permissible in the zone which would permit a FSR of 1:1 for the development. However, as no forms of residential accommodation are permitted on the land in their own right, using the provisions of the Affordable Rental Housing SEPP as a guide, a maximum FSR of 1:1 would apply for the development pursuant to point (b) above.



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Information submitted with the application indicated that the proposed development has a GFA of approximately 4,237.5sqm and the subject property has a site area of approximately 1,695sqm and the proposed development therefore proposes a FSR of 2.5:1 which exceeds the maximum FSR of 1:1 prescribed for the site under Clause 33 of MLEP 2001. Council's assessing officer has calculated the GFA of the proposal as 4,410sqm which equates to a FSR of approximately 2.60:1.

As the FSR control is a development standard under an Environmental Planning Instrument, an objection to the non-compliance with the development standard was submitted with the application in accordance with the requirements of SEPP 1. The applicant's SEPP 1 objection to the FSR development standard is discussed later in this report under the heading "Floor Space Ratio (Clause 33)".

**Building Height**

The Affordable Rental Housing SEPP prescribes the following controls in relation to building height:

*"A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:*

*(a) building height*

*if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land."*

Marrickville Local Environmental Plan 2001, which is the principal environmental planning instrument that applies to the site, does not contain any maximum building height controls in relation to the development on land zoned Light Industrial. The proposed development seeks to adaptively reuse the existing building on the site and does not propose any additions that would increase the height of the building itself, particularly the façades and parapets. However, additional roof elements are proposed in the form of roof vents as illustrated in images 11 and 12 reproduced earlier in this report. Those roof elements are centrally located on the roof of the building and are not considered to create any impacts on adjoining properties. The angle of the roof blades ensures that they would not unduly overshadow any adjoining properties, particularly 9-23 Derby Street and 47 Australia Street whilst providing solar access and natural ventilation to the development itself.

Overall, the building height is considered acceptable.

**Parking**

The Affordable Rental Housing SEPP prescribes that Council must not refuse consent to development to which this Division applies on the grounds of parking if:

- "(i) in the case of development in an accessible area - at least 0.2 parking spaces are provided for each boarding room, and*
- (ii) in the case of development not in an accessible area - at least 0.4 parking spaces are provided for each boarding room, and*
- (iii) in the case of any development - not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site."*

The site is within an accessible area and includes a total of one hundred and fifty four (154) rooms which generates a demand for thirty one (31) car parking spaces to be provided. The subject proposal includes the provision of two (2) car parking spaces as part of the subject application. Once (1) of those parking spaces is proposed to be dedicated for the on-site manager which would satisfy the requirements of control (iii) above.





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This matter is discussed in detail later in this report under the heading "Marrickville Development Control Plan No. 19 - Parking Strategy".

**Accommodation Size**

As indicated in the compliance table earlier, the Affordable Rental Housing SEPP prescribes that a consent authority must not refuse consent to a development:

*"if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:*

- (i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or*
- (ii) 16 square metres in any other case."*

All rooms within the proposed development comply with the minimum gross floor area (GFA) requirement prescribed under the provisions of the Affordable Rental Housing SEPP.

**(iii) Standards for Boarding Houses (Clause 30)**

Clause 30 of the Affordable Rental Housing SEPP prescribes that a consent authority must not consent to a development to which this Division applies unless it is satisfied of each of the following:

- (a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided.*

The proposal includes one hundred and fifty four (154) rooms and consequently requires the provision of at least one communal living room. The proposal includes a communal courtyard and recreation room on the ground floor along with two (2) communal rooms on the levels above which measure 12.5sqm and 13sqm respectively. Although the proposal provides communal rooms on each level, the size of the rooms on the first and second floor are considered to be of inadequate size to cater for the needs of the proposed fifty four (54) occupants on each level.

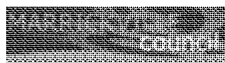
Should the application be supported, a condition should be imposed on any consent granted requiring rooms 2.04, 2.05, 2.06 and 2.07 on the first floor and rooms 3.04, 3.05, 3.06 and 3.07 second floor to be deleted and the area of the rooms be amalgamated into larger communal rooms.

- (b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres.*

Four (4) multiple occupancy rooms are proposed to be provided on each level which each consisting of either three (3) rooms where an accessible room is provided or four (4) rooms where an accessible room is not provided. Those multi occupancy rooms are greater than 25sqm in area and so those rooms would not comply with the maximum GFA standard of 25sqm. Notwithstanding this, the rooms are considered appropriate as they would provide for acceptable levels of amenity for future occupants, and offer a variety of accommodation types.

- (c) no boarding room will be occupied by more than 2 adult lodgers.*

All single occupancy rooms are proposed to be occupied by a single student and the multiple occupancy rooms are proposed to be occupied by either three (3) or four (4) students depending on the room configurations.



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The Statement of Environmental Effects and Plan of Management accompanying the application indicate that no room is intended to be occupied by more than one (1) adult lodger. Accordingly should the proposal be supported, a condition should be imposed on any consent granted for the proposal restricting the maximum number of people permitted to reside on the premises to one hundred and forty six (146)\* with only one (1) adult permitted to occupy each room. (\* The above maximum number of residents referred to above is based on the reduced number of rooms resulting from the deletion of rooms 2.04, 2.05, 2.06 and 2.07 on the first floor and rooms 3.04, 3.05, 3.06 and 3.07 on the second floor as previously discussed).

- (d) *adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger.*

Every single occupancy room in the proposal is provided with private bathroom and kitchen facilities. The multiple occupancy rooms are provided with shared facilities between the three (3) or four (4) occupants, depending on the room configuration. The proposal is considered acceptable with regard to the provision of adequate bathroom and kitchen facilities.

- (e) *if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager.*

The proposed development, as submitted, would have a capacity to accommodate up to one hundred and fifty four (154) people and as such an on-site manager would be required.

The application includes a dedicated on-site manager's residence, private courtyard and parking space and so complies with the above requirement. The Statement of Environmental Effects accompanying the application indicates that the manager would be available on-call 24 hours a day.

- (g) *if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use.*

The land is currently zoned Light Industrial and as such this provision is not applicable to this application.

- (h) *at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms*

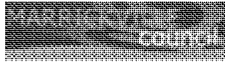
The proposed development, as submitted, includes one hundred and fifty four (154) rooms and would therefore require thirty one (31) bicycle and thirty one (31) motorcycle parking spaces. The subject application proposes to provide thirty one (31) off-street motorcycle parking spaces and fifty (50) bicycle storage racks which complies with the above requirements.

- (iv) Character of Local Area (Clause 30A)

Under the provisions of Clause 30A of the Affordable Rental Housing SEPP, applications for new boarding houses must satisfy a local character test which seeks to ensure developments proposed under the Affordable Rental Housing SEPP are consistent with the design of the area.

As discussed throughout this report, the application proposes to adaptively reuse the existing building and so is considered to be compatible with the character of the local area.

**9. Marrickville Local Environmental Plan 2001**



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Marrickville Local Environmental Plan 2001 (MLEP 2001) is the principal planning instrument which currently applies to the site. The following is an assessment of the proposed development against the applicable provisions from MLEP 2001.

(i) Zoning (Clause 16)

The property is zoned Light Industrial under the current zoning provisions of MLEP 2001. Development for the purpose of student accommodation is not specifically defined within the dictionary of MLEP 2001. The proposed development is considered to be most akin to a "boarding house" by definition which is a view shared by the applicant. Development for the purpose of a boarding house is prohibited under the current zoning provisions applying to the land.

Notwithstanding the above and in accordance with Clause 54 of MLEP 2001, the consent authority may grant consent for the use for any purpose even though the use would otherwise be prohibited by MLEP 2001 if the consent authority is satisfied that the retention of the heritage item depends on the granting of such consent. This is discussed in Section (v) below.

(ii) Aircraft Noise (Clause 28)

The subject property is located within the 20-25 Australian Noise Exposure Forecast (2029) Contour. The proposed residential accommodation would need to be noise attenuated in accordance with Australian Standard AS2021-2000 - Acoustics - Aircraft noise intrusion-Building Siting and Construction. If the application is supported and consent is granted for the proposal, a condition to such effect should be imposed on any such consent.

(iii) Flood Prone Land (Clause 29)

The property is located within an area identified as flood prone land on Council's "Approximate 100 Year (1% AEP) Flood Extent" Map. The application was referred to Council's Development Engineer who provided the following comments in relation to the proposal:

*"The site is subject to flooding. The 1 in 100 year flood level for this location of Australia Street is RL 15.3 metres AHD with floor levels to habitable areas of the building required to be at RL 15.8 metres AHD providing 500mm of freeboard."*

The plans accompanying the application detail the lowest RL level of the ground floor as being set at RL 16.17 metres AHD which is above the determined 1 in 100 year flood level.

(iv) Floor Space Ratio (Clause 33)

A maximum FSR of 1:1 applies to developments on Light Industrial zoned land under Clause 33 of MLEP 2001. Although a specific FSR control is prescribed for boarding houses under Clause 33, boarding house development are a prohibited use under the Light Industrial zoning provisions applying to the land and so the reduced boarding house FSR would not reasonably apply to the proposal. Information submitted with the application indicated that the proposed development has a GFA of approximately 4,237.5sqm and the subject property has a total site area of approximately 1,695sqm and the proposed development therefore proposes a FSR of 2.5:1 which exceeds the maximum FSR of 1:1 prescribed for the site under Clause 33 of MLEP 2001. Council's assessing officer has calculated the GFA of the proposal to be 4,410sqm which equates to a FSR of approximately 2.60:1.

As the FSR control is a development standard under an Environmental Planning Instrument, an objection to the non-compliance with the development standard was submitted with the application in accordance with the requirements of State Environmental Planning Policy No. 1 - Development Standards (SEPP 1). The applicant's SEPP 1 objection to the FSR development standard states, in part, that compliance with the development standard is unreasonable and unnecessary on the following grounds:



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*"In December 2009, Council considered application DA200900321 for an application submitted under similar circumstances to this case, for the adaptive reuse of an existing warehouse building as a boarding house with a proposed floor space ratio of 3.29:1. The variation to the development standard was supported on the basis that the proposal was an appropriate adaptive reuse of the building.*

*The complexities of the light industry zoning are addressed elsewhere in this Statement. Whilst it is not contended that the zoning of this parcel is unreasonable or inappropriate, it is nonetheless acknowledged that the configuration of the site and the limitations imposed through having to work within a heritage curtilage render the reuse of the site as a legitimate light industry unlikely.*

*It is further argued that, pursuant to the second 'test' of Mehbe, the underlying objective of the standard is not relevant to this particular development. The intention of the standard in minimising the intensity of boarding houses does not take into consideration the adaptive reuse of a heritage building, the 'island' nature of the site, and the unique nature student accommodation in this locality given its proximate location to the university campus."*

It should be noted that the application referred to in the applicant's submission (DA200900321), whilst it involved an adaptive re-use of the existing warehouse building the subject application was not "submitted under similar circumstances to this case" as contended by the applicant. That development application related to carry out alterations to the premises at 187-191 Parramatta Road, Camperdown to convert the premises into a four (4) storey boarding house with lower level common lounge area, car parking and showroom. That property is not heritage listed and is currently zoned General Business under MLEP 2001, a zone equivalent to Zone B2 - Local Centre and as such the provisions of the Affordable Rental Housing SEPP applied to that development. The maximum floor space ratio control for boarding houses of 0.7:1 under MLEP 2001 was not applicable in the assessment of the subject application as the proposal was subject to the maximum floor space ratio control for boarding houses (being 2.5:1) as contained in State Environmental Planning Policy (Affordable Rental Housing) 2009.

Consideration of a SEPP 1 objection also requires assessment of how the proposal, notwithstanding the non-compliance with the development standard, will achieve the objectives of the subject development standard.

Clause 33 of MLEP 2001 does not contain any specific objectives relating to the FSR development standard. Typically, the objectives for a FSR development standard would broadly be based on managing the environmental impacts of the built form of a development on its surroundings. However in this instance, the FSR development standard in MLEP 2001 is specifically related to the development type, being a boarding house, which would suggest that the intended objective of the development standard is to manage the impacts of the use by restricting the intensity of the development.

The applicant's SEPP 1 objection elaborates on the lack of objectives for the FSR development standard as follows:

*"It is contended that this tacit objective was formulated with a specificity that would render it inapplicable to this proposal. Developments within the 'boarding house' characterisation may be associated with socio-economic connotations that the Council would wish to control by limiting density. The proposal is for a specific type of accommodation marketed directly at the tertiary student market, which will not present the socio-economic conditions that may be associated with other boarding house developments. The additional specifics of the development, including the adaptive reuse of a building located on an island site, which is not within a residential zone, are considered sufficient to determine that the underlying purpose of the standard is not applicable in this instance."*

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The applicant's rationale above is considered to have merit. It is acknowledged that the approach of providing a reduced development standard for boarding house developments or a particular use in general is outdated with particular regard to boarding houses. This is supported by the implementation of new Local Environmental Plans based on the standard instrument template which do not, or at least in Marrickville Council's draft instrument, specify a reduced or separate FSR development standard for specific uses such as boarding houses. Given the progressive move to new generation boarding houses currently being developed in the Local Government Area and state wide on a broader scale, it is agreed that the 0.7:1 development standard should not be applicable to this proposal.

Notwithstanding the above, an assessment of the GFA and FSR is still required to determine whether it is appropriate in the circumstances. As noted throughout this report, the application does not propose any additions to the existing building that would be noticeable from the building's surrounds. The proposed development maintains the building's existing non-compliant FSR and redistributes the GFA throughout the building to create the proposed internal layout.

A portion of the additional GFA is contributed to by the bicycle and motorcycle parking spaces included in the proposed basement level which are not specifically excluded from the calculation of the GFA of a development according to the definition of gross floor area in MLEP 2001.

Under the proposed zoning provisions that would apply to the land under draft Marrickville Local Environmental Plan 2011 (draft MLEP 2011), the site is proposed to be zoned IN2 Light Industrial with a proposed FSR control of 0.95:1 and no maximum building height control specified. Subject to compliance with other development controls that would apply, this could permit the construction a large industrial building of similar scale to that currently on the site. Therefore if the adaptive reuse of the existing building is not supported, it is likely that a building of similar scale could be proposed for the site which would result in no or little change to the existing built form. The proposal is considered to be an appropriate response to the adaptive reuse of the building.

The building's existing height, built form and scale are considered appropriate in the streetscape context and retention of the existing building is considered appropriate in the circumstances.

The applicant's SEPP 1 objection is considered to have merit and be well founded for the reasons provided above and for the reasons provided in the further assessment of the proposal contained within the subsequent sections of this report. Referring to the aims of SEPP 1, it is considered appropriate to apply flexibility in the application of the FSR development standard applicable for this particular development as prescribed by Clause 33 of MLEP 2001.

Clause 8 of SEPP 1 requires Council to assess the following:

- whether non-compliance with the development standard raises any matter of significance for State and regional planning, and
- the public benefit of maintaining the planning controls adopted by the environmental planning instrument.

It is considered that the non compliance with the subject development standard does not raise any matter of significance for State and regional planning, and that there is no public benefit in maintaining the subject planning control adopted by the environmental planning instrument for the proposed development.

(v) Heritage (Clauses 47 to 55)

The Australia Street façade of the existing building is currently listed as a heritage item under MLEP 2001. The remainder of the building is not a heritage item under MLEP 2001.





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The premises are located within the vicinity of heritage items including the row of industrial properties along Australia Street to the north of the site and Camperdown Park which is situated opposite the site.

The subject property is also located in the Camperdown Heritage Conservation Area under draft Marrickville Local Environmental Plan No. 111.

**Clause 48 - Protection of Heritage Items, Heritage Conservation Areas and Relics**

In accordance with Clause 48 of MLEP 2001 relating to the protection of heritage items, heritage conservation areas and relics, the consent authority must take into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item when determining a development application required by this clause.

Particular consideration is given to the heritage significance of the item as part of the environmental heritage of the Marrickville local government area, the impact that the proposed development will have on the heritage significance of the item and its setting, including any landscape or horticultural features as well as the measures proposed to conserve the heritage significance of the item and its setting.

The application was referred to Council's Heritage and Urban Design Advisor who provided the following comments in relation to the proposal:

**Description:**

*The subject property contains a 3 storey brick (partially painted) warehouse building, built in two stages between 1923 - 1926. It is fairly plain with some curved detail at parapet level, some brick banding, terra cotta vents, concrete lintels above regular square windows, internal timber columns and beams with floor boards. Windows are powder coated aluminium. Some damage is evident in the form of cracking to the façade and water penetration issues, and a fairly high degree of impact on the original fabric including the replacement of all original windows and doors, stairs, and loss of some columns. The site is believed to be associated with the Fowler Factory and therefore is considered to have potential archaeological significance.*

**Heritage Listings:**

MLEP 2001: within Amendment 1 Area ResA6  
Draft MLEP 2011 Heritage Item I3

**Proposal:**

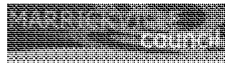
*The proposed works include:*

- *Demolition of recent internal finishes, fittings and fixtures.*
- *Demolition of floors for atrium and raising floor level above basement.*
- *Retention of large areas of original/early structure including posts, beams and brick walls.*
- *Construction and fit out for use as student accommodation with basement parking for one car and 94 bikes/motorbikes.*

**Comments:**

*The proposal over all is supported however the following issues require consideration:*

- *The units with an entirely internal aspect receive natural ventilation only from the atrium, have no outlook and are prone to constant noise from communal areas. This may present an inadequate level of amenity for inhabitants.*
- *The car space provided is said to be for the building manager who lives and works onsite. Parking for a second service vehicle or van does not appear to be provided, and is perhaps more necessary.*



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- The laundry at basement level does not provide a natural air drying area. This means that dryers would be going constantly and students would need to attend to them (and the washing machines), or have some system of booking/queuing for their use (which is likely to be difficult in the basement). I recommend a laundry is provided at each level (5 machines per level for approximately 36 occupants) with natural drying facilities. This would be significantly more practical and better environmentally.

Additionally the following recommendations (contained in section 5.0 Conclusion and Recommendation of the Statement of Heritage Impact by Paul Rappoport Pty Ltd) should be adopted: An Archaeological Assessment, an Archival Record, and an Interpretation Strategy are to be provided as deferred consent conditions. All documents to be undertaken in accordance with the guidelines set out by the NSW Office of Environment and Heritage.

Recommendation:

Supported provided above recommendations/alterations are considered."

Given the above comments, the proposed development is considered to have acceptable impacts on the item, adjoining items and draft Heritage Conservation Area. If the application is supported and consent is granted for the proposal, the recommendations and conditions provided by Council's Heritage and Urban Design Advisor should be imposed on any such consent.

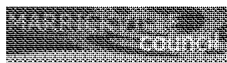
### Clause 54 - Conservation Incentives

The property is zoned Light Industrial under the current zoning provisions of MLEP 2001. Development for the purpose of student accommodation is not specifically defined within the dictionary of MLEP 2001. The proposed development is considered to be most akin to a "boarding house" by definition, which is a view shared by the applicant. Development for the purpose of a boarding house is prohibited under the zoning provisions applying to the land under MLEP 2001`.

Notwithstanding the above and in accordance with Clause 54 of MLEP 2001, the consent authority may grant consent for the use for any purpose even though the use would otherwise be prohibited by MLEP 2001 if the consent authority is satisfied that the retention of the heritage item depends on the granting of such consent.

Clause 54 of MLEP 2001 contains conservation incentives relating to Items of Environmental Heritage which reads as follows:

- "(1) Consent may be granted for the use for any purpose of a building that is a heritage item, or of the land on which any such item is erected, even though the use would otherwise be prohibited by this plan, if the consent authority is satisfied that the retention of the building that is a heritage item depends on the granting of consent and:
- the condition of the heritage item is such that the use of the item for any purpose which is permissible in the zone would be impractical or undesirable, and
  - the heritage item requires a substantial amount of capital expenditure (other than maintenance work) in order to conserve its heritage significance, and
  - the proposed use is in accordance with a conservation management plan which has been endorsed by the Council, and
  - the cost of the conservation work identified in the conservation management plan is such that there is no reasonable possibility that any of the uses which are permissible in the zone would be economically viable for the current or any future owner, and
  - the granting of consent to the proposed use would ensure that all necessary conservation work identified in the conservation management plan is carried out, and
  - the proposed use, if approved, would not affect the heritage significance of the heritage item or its setting, and



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- (g) *the proposed use would not adversely affect the amenity of the surrounding area, and*
- (h) *in all other respects the proposed use complies with the provisions of this plan.*
- (2) *When considering an application for consent to erect a building on land on which a heritage item is to be retained and conserved, the consent authority may exclude the floor space of the building from its calculation of parking spaces for the proposed development if it is satisfied that:*
  - (a) *any proposed car parking area would not adversely affect the heritage significance of the item, and*
  - (b) *any proposed car parking area would not adversely affect the amenity of the area and its streetscape qualities, and*
  - (c) *the conservation of the item in accordance with subclause (1) depends on the making of the exclusion."*

The subject property is not specifically listed as a heritage item within Schedule 5 of MLEP 2001 however is shown by distinctive colouring, lettered and edged heavy black on the heritage item map that accompanies MLEP 2001. Schedule 1 of MLEP 2001 defines a heritage item as follows:

*"heritage item means a building, work, relic, tree or place, a component of a building, work, relic, tree or place and its curtilage or a group of buildings, works, relics or trees which is described in Part 1 of Schedule 5 and shown by distinctive colouring, lettered and edged heavy black on the heritage item map."*

The heritage item map of MLEP 2001 shows the subject property as being part of Item 2.29 which in Schedule 5 of MLEP 2001 is described as "Industrial façade" covering the properties at 1-11 Australia Street, 13-33 Australia Street and 35-41 Australia Street, Camperdown. As noted, the subject property is not listed as being part of the item. Nonetheless, the subject property is captured within the heritage item map that accompanies MLEP 2001 and it is noted that the subject property is a proposed heritage item identified in Schedule 5 of draft Marrickville Local Environmental Plan 2011 as Item I3 - 43 Australia Street, Camperdown - Part of Australia Street Industrial Group.

Given the way in which the listing is constructed and the current provisions of MLEP 2001, the current heritage significance of the subject property only relates to the Australia Street façade of the building. Given this, the applicant is required to demonstrate, pursuant to Clause 54 (1), that the retention of the Australia Street façade depends on the granting of consent for the proposal.

In determining this, the consent authority must be satisfied that the proposed development satisfies **all** of the matters for consideration under Clause 54. To this extent, concern is raised that the proposed development does not satisfy the relatively onerous requirements prescribed under Clause 54 of MLEP 2001. Non-compliance with any one of the prescribed criteria under Clause 54 results in the proposal being a prohibited form of development. Each of those clauses is discussed in detail under their respective headings below:

- (a) *Clause 54 (1) (a) The condition of the heritage item is such that the use of the item for any purpose which is permissible in the zone would be impractical or undesirable.*

Clause 54 (1) (a) requires the applicant to demonstrate, to the consent authority's satisfaction, that the use of the item for any purpose which is permissible under the zone is impractical or undesirable. As such, the consent authority requires evidence that the condition of the existing heritage item (in this case the Australia Street façade) is such that the use of the item for any purpose which is permissible in the zone would be impractical or undesirable.

It is understood that the previous occupants of the subject property, the NSW Nurses' Association, vacated the premises in early 2010 following their purchase of a larger premises in order to meet

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the growing accommodation needs of the business. The building is not known to have been vacated for reasons that the building itself, or the Australia Street façade, were no longer suitable for continued occupation and use.

Under Clause 16 of MLEP 2001, the following uses are permissible with Council's consent on land zoned Light Industrial:

- *Advertising Structure;*
- *Backpackers' Hostel;*
- *Brothel;*
- *Bulk Store;*
- *Bus Depot;*
- *Bus Station;*
- *Car Parking;*
- *Child Care Centre;*
- *Club;*
- *Commercial Premises (Bank Only);*
- *Community Facility;*
- *Educational Establishment;*
- *Hazardous Industry;*
- *High Technology Industry;*
- *Hotel;*
- *Light Industry;*
- *Motel;*
- *Motor Showroom;*
- *Offensive Industry;*
- *Place of Assembly;*
- *Place of Public Worship;*
- *Public Building;*
- *Recreation Facility;*
- *Refreshment Room;*
- *Retail Plant Nursery;*
- *Service Station;*
- *Shops (Chemist, Take-Away Food Bar, Fruit Shop or Newsagent Only);*
- *Tourist Facilities;*
- *Transport Terminal; or*
- *Warehouse.*

As the heritage item under MLEP 2001 only relates to the Australia Street façade of the premises, the use of heritage item for all the above listed permissible uses would be impractical other than the use of the façade to display an "advertising structure".

A statement, prepared by Urbis Valuations, was submitted for the proposal. The statement provides information on suitability of the building for some uses permissible in an Industrial Light zone under the provisions of MLEP 2001. However, the statement is not considered to provide enough detail and only briefly addresses the practicality, desirability and economic viability of the uses. In addition as stated previously only the Australia Street facade of the existing building is heritage listed with the remainder of the building not being a heritage item under MLEP 2001.

The statement concentrates on the use of the premises as an "educational establishment" however it is noted that the broad definition of an "educational establishment" under MLEP 2001 includes museums and galleries which have not specifically been addressed.

Furthermore, the assessment of alternative permissible uses does not discuss the option of using the existing building for a number of permissible uses and rather concentrates on a single use of the building which is considered to increase the impracticality and undesirability of the uses given the size of the building.



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A costs/benefit analysis was not provided for any of the remaining permissible uses to illustrate the impracticality of utilising the heritage item for any of the permissible uses.

A Conservation Management Plan (CMP), Heritage Impact Statement (HIS) and Assessment of Heritage Impact for Permissible Uses, prepared by Rappaport Heritage Consultants, accompanied the application. Those documents summarise the condition of the heritage item, being the Australia Street façade, in limited detail and provide limited to no detail regarding the amount of work that would be required to conserve the heritage item in order for Council to be satisfied that *"the condition of the heritage item is such that the use of the item for any purpose which is permissible in the zone would be impractical or undesirable"* as required by this clause. In particular, the CMP summarises the building's façades and internal condition as follows:

*"Façades*

*Generally, the façades are in good condition and there is no evidence of mortar loss in the brickwork. The paintwork on the painted east facing façade on Australia Street is in good condition. However the paint on the Australia Street façade has obliterated the painted signage for 'lotus Bedding' which adorned this elevation from the c. 1930s until c. 1970s. Thus there seems to be little association of the warehouse with the name 'Lotus House', referred to in relevant Marrickville Council heritage inventory sheets for the site.*

*Certain reinforced concrete lintels are chipped and there has been noticeable material dilapidation of some concrete lintels which are in need of structural remediation. The paintwork on the reinforced lintels to all façades, and the windowsills to the southern Derby Street façade, is showing signs of failure and it is suspected that the flakiness is a result of the presence of Kalsomine in the original or early layers of paint. This will need to be scraped back to the substrate and prepared for repainting in a matching colour.*

*Internal Condition*

*The internal timber post and beam structure, the suspended timber flooring system and the steel column and beam structure is of high significance. The suspended timber floors in the offices are in all likelihood original. It is sensible to assume that generally these have been preserved although due to the floor covering (carpet and vinyl) such an assertion cannot be made with certainty. In the mid to late 20th century the timber post and beam structure has been encased in plasterboard. An inspection of the timber posts, beams and the suspended timber flooring system was not carried out as part of the CMP so that the condition of these timber elements has not been ascertained. The encasing of the timber post and beam structure appears, from the few available observation points, to have generally protected the elements of the structure. The condition of the timberwork which is exposed and thus able to be inspected is good. The steel column and beam structure as well as the brick columns are in good condition, as are the exposed concrete floors of the garage area.*

*Some of the posts and beams have been removed from a small portion of the south-east level corner of the building where transfer beams have been added.*

*The internal structure of the building was not inspected as part of the CMP. However, under scheduled maintenance works, regular inspections of the internal structure would need to be carried out in order to monitor the presence of any white ant activity or dry rot."*

As is clearly stated in the reproduced part of the CMP above, the internal structure of the building was not physically inspected and a number of assumptions have been made which are described as assertions that *"cannot be made with certainty"*. Therefore as is evident from the above statements, even if it was contended that the entire building was a heritage item, the consent authority could not be satisfied that the condition of the building is such that the use of the building for any purpose which is permissible in the zone would be impractical or undesirable.

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In addition to the above, a statement prepared by Tim Green Commercial Real Estate was submitted which details the issues faced while trying to market the sale of the subject property. The statement details that the property was offered through tender throughout the later half of 2009 during which most, if not all interest in the property, was from prospective purchasers intending to spot rezone the site for a residential development. That statement goes on to list the permissible uses and provides very basic comments in relation to their appeal to the market.

From inspection of the site, the condition of the existing building is considered to be acceptable. The applicant has failed to demonstrate that the condition of the heritage item, being the Australia Street façade, is such that the use of the building for any purpose which is permissible in the Light Industrial zone would be impractical or undesirable.

- (b) *Clause 54 (1) (b) The heritage item requires a substantial amount of capital expenditure (other than maintenance work) in order to conserve its heritage significance.*

Clause 54 (1) (b) requires the applicant to demonstrate to the consent authority's satisfaction that the heritage item requires a substantial amount of capital expenditure in order to conserve its heritage significance.

The applicant has provided no details regarding the amount of capital expenditure that would be required in order to conserve the heritage significance of the heritage item, being the Australia Street façade. In addition no information was submitted with the application in relation to the amount of capital expenditure that would be required in order to conserve the heritage significance of the building.

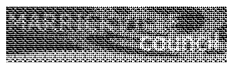
Overall and given the lack of evidence produced to support this part of the clause, it is considered that the retention of the Australia Street façade would not require a substantial amount of capital expenditure to conserve its heritage significance. This is further emphasised in the conservation policies listed in the CMP accompanying the application which do not indicate that substantial works would be required to conserve the Australia Street façade.

- (c) *Clause 54 (1) (c) The proposed use is in accordance with a conservation management plan which has been endorsed by the Council.*

Clause 54 (1) (c) requires the proposed use to be in accordance with a Conservation Management Plan endorsed by the Council. As mentioned earlier, a Conservation Management Plan (CMP), Heritage Impact Statement (HIS) and Assessment of Heritage Impact of Permissible Uses, prepared by Rappaport Heritage Consultants, accompanied the application. Those documents summarise the condition of the heritage item, being the Australia Street façade, in limited detail and provide limited to no detail regarding the amount of work that would be required to conserve the heritage item.

A Conservation Management Plan should seek to protect the heritage item and its significance and guide the design of future development. However an analysis of the subject CMP tends to indicate that it was developed in response to the proposed development, and this provides inadequate protection for the heritage item as previously discussed. Therefore, it is considered that the proposed development fails to satisfy Clause 54 (1) (c) of MLEP 2001 as the Conservation Management Plan does not sufficiently protect the heritage item on the site.

- (d) *Clause 54 (1) (d) The cost of the conservation work identified in the conservation management plan is such that there is no reasonable possibility that any of the uses which are permissible in the zone would be economically viable for the current or any future owner.*



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Similar to Clause 54 (1) (a) and (b) Clause 54 (1) (d) requires the applicant to demonstrate to the consent authority's satisfaction that the cost of the conservation work identified in the Conservation Management Plan is such that there is no reasonable possibility that any of the uses which are permissible in the zone would be economically viable for the current or any future owner.

As previously mentioned, the heritage listing of the subject property only relates to the Australia Street façade of the building. Costing for the conservation work identified in the Conservation Management Plan was not provided for this application and so the application fails to demonstrate that any of the permissible uses would be economically unviable in accordance with the requirements of this clause.

- (e) *Clause 54 (1) (e) The granting of consent to the proposed use would ensure that all necessary conservation work identified in the conservation management plan is carried out.*

Clause 54 (1) (e) requires consideration as to whether the granting of consent to the proposed use would ensure that all necessary conservation work identified in the CMP is carried out. Whilst the proposed development may ensure that the conservation work for the building is carried out, the carrying out of such works is not dependent on the granting of consent for this proposal.

As has been mentioned throughout this report, the heritage listing of the subject property only relates to the Australia Street façade of the building. Consequently, the carrying out of any development whether permissible within the zone or permitted by virtue of Clause 54 of MLEP 2001 would ensure that the conservation works are carried out in accordance with the CMP.

- (f) *Clause 54 (1) (f) The proposed use, if approved, would not affect the heritage significance of the heritage item or its setting.*

Clause 54 (1) (f) requires the proposed use, if approved, would not affect the heritage significance of the heritage item or its setting.

The application was referred to Council's Heritage and Urban Design Advisor who considers the proposal to be supportable subject to some amendments and imposition of suitable conditions on any consent granted for the proposal in line with the recommendations contained in the CMP accompanying the application.

The proposal is considered to have minimal impact on the heritage significance of the item and its setting. Conversely, the proposal is considered to provide an opportunity for the existing building to be upgraded and for some original features of the building to be restored including the stripping of the painted Australia Street façade. However, this can be said for any proposal to carry out works to the existing building including any of the permissible uses within the Light Industrial zone.

- (g) *Clause 54 (1) (g) The proposed use would not adversely affect the amenity of the surrounding area.*

The proposal is considered to have acceptable amenity impacts on adjoining properties in relation to solar access, overshadowing and visual and acoustic privacy. Each of these matters and the general amenity impacts of the proposal are discussed in detail later in this report under the heading "Marrickville Development Control Plan No. 35 - Urban Housing (Volume 2)".

It is considered that the proposed development would not adversely affect the amenity of the surrounding area and therefore the proposal is considered acceptable having regard to Clause 54 (1) (g) of MLEP 2001.

- (h) *Clause 54 (1) (h) In all other respects the proposed use complies with the provisions of this plan.*

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The wording of the above clause creates a number of interpretation issues. A literal interpretation of the clause could be taken to mean that a proposed use would need to otherwise comply with all other provisions under Marrickville Local Environmental Plan 2001 for that form of development, whether or not they are relevant. However, the intent of the clause is taken to be intended that the proposed use is required to comply with the **relevantly applicable** provisions of the plan.

In terms of the relevantly applicable development standards under MLEP 2001, the only relevant development standard would be the floor space ratio control prescribed under Clause 33.

As mentioned throughout various sections of this report, a maximum FSR of 1:1 applies to developments on Light Industrial land under Clause 33 of MLEP 2001. Although a specific FSR control is prescribed for boarding houses under Clause 33, boarding house development are a prohibited use under the Light Industrial zoning provisions applying to the land and so the reduced boarding house FSR would not reasonably apply to the proposal. Information submitted with the application indicates that the proposed development has a GFA of approximately 4,237.5sqm and the subject property has a total site area of approximately 1,695sqm and the proposed development therefore proposes a FSR of 2.5:1 which exceeds the maximum FSR of 1:1 prescribed for the site under Clause 33 of MLEP 2001. Council's Assessing Officer has calculated the GFA of the proposal as 4,410sqm which equates to a FSR of 2.60:1 which exceeds the subject control.

A literal interpretation of Clause 54 (1) (h) suggests that as the proposal does not comply with the floor space ratio control under Clause 33 of MLEP 2001, the proposed development would therefore be prohibited regardless of whether it satisfied all the other matters for consideration under Clause 54 (1) of MLEP 2001.

It is uncertain as to whether or not "the provisions of this plan" referred to in Clause 54 (h) can be considered in a similar manner to development standards or whether a non compliance with one or more particular provision results in a proposed use not satisfying the requirements of Clause 54 (h) and consequently resulting in a proposed development being prohibited.

In relation to the floor space ratio development standard, the following question could be posed:

*"Would a well founded SEPP 1 objection to the subject floor space ratio development standard control result in there being compliance with the requirement in Clause 54 (1) (h)?"*

The applicant's Statement of Environmental Effects asserts that the floor space ratio development standard in Clause 33 of MLEP 2001 is a development standard that applies to the proposed development and accordingly has submitted a SEPP 1 objection in support of the proposal's non-compliance with the development standard. In other words, the applicant has interpreted Clause 54 (1) (h) to mean that a proposal would otherwise comply with the plan so long as a relevant development standard (in this case, the FSR provision in Clause 33) is supported by an objection under State Environmental Planning Policy No. 1 (SEPP 1) that the consent authority is satisfied is well founded.

The applicant's SEPP 1 objection to the floor space ratio development standard has been discussed in detail earlier in this report and for the reasons detailed in that section, the applicant's SEPP 1 objection is considered to be well founded and supportable.

It could therefore be argued that although the proposed development fails to satisfy the maximum floor space ratio development standard prescribed under Clause 33 of MLEP 2001, considering the SEPP 1 objection being well founded and worthy of support would inherently result in the proposal satisfying the provisions of Clause 54 (1) (h) of MLEP 2001.

Overall, the proposed development fails to satisfy the provisions of Clause 54 (1) (a), (b), (c), (d) and (e) and is therefore considered to be prohibited. On this basis the application cannot be supported and accordingly, refusal of the application is recommended.





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(vi) Protection of Trees (Clause 56)

Clause 56 of MLEP 2001 concerns the protection of trees under Council's Tree Preservation Order. There are no trees on the property covered by under Council's Tree Preservation Order however there are existing street trees in Derby Street which may be impacted by the carrying out of the proposed development. Accordingly, the application was referred to Council's Tree Management Officer who provided the following comments:

*"There is a Corymbia maculata (Spotted Gum) located in the footpath verge in Derby Street. The plans indicate two street trees in Derby Street however it appears that a tree has recently been removed. The verge in Derby Street is narrow (approximately 1.2 metres). There is a lack of sunlight that has caused the existing tree to grow phototropically and it is leaning away from the wall of the building over the roadway. A replacement tree will not be conditioned for Derby Street.*

*There is an opportunity for street tree planting along the Australia Street frontage. It is recommended that 4 - 5 Ceratopetalum gummiferum (NSW Christmas Tree) trees be planted. This will reinforce the planting to be undertaken shortly at a site further to the north in Australia Street and planting recently undertaken on the far side of the adjacent park.*

*Recommendations:*

*The heads of consideration in section 79C of the Environmental Planning and Assessment Act have been taken into consideration in respect to designated trees and the application is recommended suitable for approval subject to conditions."*

If the application is supported and consent is granted for the proposal, the conditions recommended by Council's Tree Management Officer should be imposed on any such consent.

(vii) Acid Sulfate Soils (Clause 57)

The property is not located within an area identified as being subject to acid sulfate soil risk under MLEP 2001.

(viii) Waste Management (Clause 58)

Clause 58 of MLEP 2001 requires consideration of waste management for any proposed development. There is considered to be sufficient area within the site to allow for the storage of garbage bins. A Site Waste Management Plan in accordance with Council's requirements was submitted with the application and is considered to be adequate. This matter is discussed in more detail later in this report under the heading "Marrickville Development Control Plan No. 27 - Waste Management".

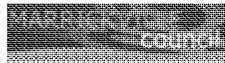
(ix) Energy, Water & Stormwater Efficiency (Clause 59)

Clause 59 of MLEP 2001 requires consideration to be given to the energy, water and stormwater efficiency of any proposed development. This matter is discussed in more detail later in this report under the heading "Marrickville Development Control Plan No. 32 - Energy Smart Water Wise".

(x) Landscaping and Biodiversity (Clause 60)

Clause 60 of MLEP 2001 requires consideration be given to conservation of biodiversity as is of relevance to the subject application. The subject site does not contain any significant native vegetation and presents very limited opportunity for new landscaping to be provided. As discussed earlier, Council's Tree Management Officer has recommended conditions be imposed on any consent granted requiring new street tree planting to be undertaken on the Australia Street





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frontage of the property. If the application is supported and consent is granted for the proposal, those conditions should be imposed on any such consent.

The subject site is not located within an area identified as a potential habitat or protection area for the Long-nosed Bandicoot (*Perameles nasuta*) population in inner western Sydney listed as an endangered population under the NSW Threatened Species Conservation Act 1995.

(xi) Community Safety (Clause 62)

Clause 62 of MLEP 2001 requires consideration to be given to community safety before granting development consent. To this extent the following matters are to be considered:

- (a) *the provision of active street frontages where appropriate,*
- (b) *the provision of lighting for pedestrian site access between public and shared area, parking areas and building entrances,*
- (c) *the visibility and legibility of building entrances from streets, public areas or internal driveways."*

The existing windows along all street elevations are proposed to be retained as part of the proposal which would provide for suitable levels of activation to all building frontages.

If the application is supported and consent is granted for the proposal, a condition should be imposed on any such consent requiring the provision of suitable lighting the pedestrian site access, parking areas and building entrances.

The main pedestrian entry to the premises is proposed to be provided off Australia Street with a reconfigured entry that will be located centrally on the street elevation. The proposed entry is considered to be clearly visible and legible from the street and would be easy to locate given that the street address of the property is to Australia Street.

The community safety aspects of the proposal are further discussed later in this report under the heading "Marrickville Development Control Plan No. 38 - Community Safety".

**10. Draft Marrickville Local Environmental Plan 2011**

Draft Marrickville Local Environmental Plan 2011 was placed on public exhibition on 4 November 2010 and accordingly is a matter for consideration in the assessment of the subject development application under Section 79C of the Environmental Planning and Assessment Act 1979.

The following assessment considers the proposed development having regard to the zoning provisions and controls contained in draft MLEP 2011 that are of relevance in the assessment of subject development application:

Zoning:	IN2 Light Industrial
<i>Is development permitted under zoning?</i>	No
<i>Do the premises enjoy existing use rights?</i>	No
<i>Is the development permissible under Clause 5.10?</i>	Only if the development satisfies all the requirements of the subject clause

Floor Space Ratio (max):	
Permitted:	0.95:1
Proposed:	2.38:1

Height of Building (max):	
Permitted:	Not specified
Proposed:	16 metres



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Land Reservation Acquisition:	No
Heritage:	
Draft Heritage Item:	Yes
Draft Heritage Conservation Area:	Item I3 - Part of Australia Street Industrial Group
In vicinity of draft item or area:	No
	Yes
Flood Planning:	Affected
Acid Sulfate Soils:	Not affected
Key Sites:	No
Foreshore Building Line:	No
Natural Resource - Biodiversity:	
Habitat Corridor:	No
Bandicoot Protection Area:	No

Under draft MLEP 2011 the entire building is a proposed heritage item (Item I3) rather than only the Australia Street façade as is currently the case under Marrickville Local Environmental Plan 2001. Clause 5.10 of Draft MLEP 2011 contains less onerous conservation incentives provisions than those contained within Clause 54 of MLEP 2001.

Clause 5.10 of Draft MLEP 2011 reads as follows:

**“(10) Conservation incentives**

*The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:*

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and*
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and*
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.”*

To be permissible the proposal would need to satisfy all the requirements of the subject clause.

As indicated above, the proposed development generally satisfies the remainder of the relevant controls as contained in draft MLEP 2011 with the exception the proposed FSR of the development which exceeds the proposed maximum of 0.95:1.

It should also be noted, by virtue of Clause 1.9 Draft MLEP 2011, that upon the gazettal of Draft MLEP 2011 State Environmental Planning Policy No. 1 – Development Standards would not longer apply to land within the Marrickville Local Government area.



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Clause 4.6 of Draft MLEP 2011 contains provisions that provide a degree of flexibility in applying certain development standards to particular development. Under Clause 4.6 (2) Development consent may be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.

Under Clause 4.6 (3):

*"Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard."*

The departure from the floor space ratio development standard would need to be accompanied by a written request in accordance with the requirements under Clause 4.6 (3). Clause 4.6 (4) (b) requires the Director- General's concurrence for the contravention of the development standard.

(i) Savings Provision relating to Development Applications (Clause 1.8A)

Clause 1.8A of the latest version of Draft MLEP 2011 contains savings provisions for applications lodged before the gazettal of the LEP. That Clause reads as follows:

*"If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.*

*Note. However, under Division 4B of Part 3 of the Act, a development application may be made for consent to carry out development that may only be carried out if the environmental planning instrument applying to the relevant development is appropriately amended or if a new instrument, including an appropriate principal environmental planning instrument, is made, and the consent authority may consider the application. The Division requires public notice of the development application and the draft environmental planning instrument allowing the development at the same time, or as closely together as is practicable."*

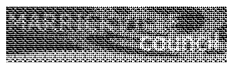
Council anticipates the gazettal of draft MLEP 2011 to occur close to the time that a determination will be made on the subject application. Under the savings provisions referred to above even if Draft MLEP 2011 is gazetted before the determination of the application the subject development application must be determined as if the Plan has not commenced.

For the reasons outlined in this report the proposed development is prohibited under the Light Industrial zoning provisions applying to the land under MLEP 2001 and the proposal fails to satisfy the requirements of Clause 54 in MLEP 2001. Consequently the proposed development is prohibited.

(ii) Heritage Conservation (Clause 5.10)

Draft MLEP 2011 contains a similar but less onerous heritage conservation incentives clause to that in MLEP 2001. The Statement of Environmental Effects accompanying the application provides the following comments in relation to the heritage conservation incentives clause of draft MLEP 2011:

*"At the time of writing, the Draft Marrickville Local Environmental Plan 2011 is awaiting gazettal with the Minister for Planning and Infrastructure. Gazettal of the LEP is considered*



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both certain and imminent. Incoming provisions of the draft instrument in relation to heritage conservation incentives, whilst reflecting the existing provisions permitting uses that would otherwise be prohibitions, allows considerably more latitude in the assessment of applications submitted pursuant to the heritage incentive clause as prescribed.

Clause 5.10 (10) of the draft LEP is a compulsory provision of the Standard Instrument: Principle Local Environmental Plan, meaning it constitutes a formal direction from the State Government regarding the adaptive reuse of heritage items. The certitude and imminence of this clause being applied to the subject site is considered sufficient to warrant assessment of the application under these provisions, 'facilitating' heritage conservation, as opposed to the more stringent measures contained within the current controls.

Pursuant to Clause 5.10 (10) of the draft LEP, Council may grant consent to the use of a heritage item that would otherwise be prohibited within the zone within which it is sited, provided that the consent authority is satisfied of the following:

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

The application is submitted in accompaniment with the Conservation Management Plan appended at **Attachment IV**, which demonstrates that requirements (a) - (d) (above) are satisfied. This is confirmed through the Statement of Heritage Impact appended at **Attachment V**. Compliance with requirement 'e' is demonstrated at various sections of this Statement.

On this basis, the proposal is considered to satisfy the requirements of Clause 5.10 (10) of the draft LEP, which reflects a state-wide direction on the adaptive reuse of heritage buildings. Given the social and economic benefits derived from the proposed use (identified elsewhere in this Statement), the proposal is considered an appropriate adaptive reuse of a building pursuant to Clause 5.10 (10) of the draft LEP and is worthy of the support of the consent authority."

Section 79C of the Environmental Planning and Assessment Act requires consideration of the provisions of any draft Environmental Planning Instrument, in this case draft MLEP 2011. As reproduced earlier, the savings provisions of draft MLEP 2011 require that any development application lodged before the commencement of the draft LEP must be determined as if this Plan had not commenced. Although there is some merit in the applicant's submission, it is considered that the provisions of the draft LEP cannot legally be given any weight to justify supporting the application given that the development is otherwise prohibited under the current applicable provisions of MLEP 2011.

Notwithstanding the above, the application is considered to be more capable of satisfying the provisions contained in Clause 5.10 of draft MLEP 2011. Each of the matters for consideration under that Clause are reproduced and discussed below:

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent.



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The proposed development is considered to facilitate the work required to conserve the heritage listed building.

- (b) *the proposed development is in accordance with a heritage management document that has been approved by the consent authority.*

A Conservation Management Plan (CMP), Heritage Impact Statement (HIS) and Assessment of Heritage Impact for Permissible Uses, prepared by Rappaport Heritage Consultants, accompanied the application. Those documents summarise the condition of the heritage item, being the Australia Street façade, in limited detail and provide limited to no detail regarding the amount of work that would be required to conserve the heritage item. Nonetheless, additional information could be provided to try and satisfy the requirements of this clause.

As the documents contain insufficient information, the application would not be able to be supported.

- (c) *the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out.*

This clause is self explanatory. If the application was to be supported and consent granted for the proposal, a condition could be imposed on any such consent requiring the conservation work identified in an approved Conservation Management Plan to be carried out.

- (d) *the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance.*

The application was referred to Council's Heritage and Urban Design Advisor who considered the proposal to be supportable subject to some amendments and imposition of suitable conditions on any consent granted for the proposal in line with the recommendations contained in the CMP accompanying the application.

The proposal is considered to have minimal impact on the heritage significance of the item and its setting. Conversely, the proposal is considered to provide an opportunity for the existing building to be upgraded and for some original features of the building to be restored including the stripping of the painted Australia Street façade. However, this can be said for any proposal to carry out works to the existing building including any of the permissible uses within the Light Industrial zone.

- (e) *the proposed development would not have any significant adverse effect on the amenity of the surrounding area.*

As discussed earlier under the heritage incentives provisions of MLEP 2001, the proposal is considered to have acceptable amenity impacts on adjoining properties in relation to solar access, overshadowing and visual and acoustic privacy. Each of these matters and the general amenity impacts of the proposal are discussed in detail later in this report under the heading "Marrickville Development Control Plan No. 35 - Urban Housing (Volume 2)".

**11. Marrickville Development Control Plan No. 19 - Parking Strategy**

Marrickville Development Control Plan No. 19 - Parking Strategy (DCP 19) does not prescribe a specific car parking requirement for applications involving student accommodation. Similarly, the NSW Roads and Traffic Authority's Guide to Traffic Generating Developments do not contain any car parking requirements for student accommodation.





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The proposed development is considered to be most akin to a boarding house by category which under DCP 19 requires car parking to be provided at a rate of one (1) space for every ten (10) beds plus one (1) space for every resident caretaker.

The proposed development includes one hundred and fifty four (154) rooms and an on-site manager. Based on these numbers, the proposal would require fifteen (15) car parking spaces for occupants and one (1) space for the on-site manager under DCP 19.

The plans accompanying the application indicate that the basement level would contain two (2) car parking spaces along with one (1) car/van/ute loading space. One (1) of the car parking spaces is intended to be dedicated for the on-site manager which would comply with the on-site manager car parking requirement of DCP 19. However, the proposal would not comply with the car parking requirement for the number of rooms proposed.

The original application as submitted only included a single car parking space which was proposed to be dedicated to the on-site manager. The applicant was requested to amend the proposal to provide an additional two (2) car parking spaces that could be provided for a possible future car share vehicle and a service vehicle. The service vehicle parking space has been proposed however the application does not indicate who the remaining space would be allocated to (i.e. whether it would be allocated to residents or as a car share space as requested by Council). Given that the provision of a car share space would depend on an agreement being made with a car share provider, the provision of such space would be difficult to impose on the applicant without certainty that an agreement would be made. Therefore if the application is supported and consent is granted for the proposal, a condition should be imposed to the effect that the car share space be provided if an agreement can be made with a car share provider otherwise the space should be dedicated as an additional loading space.

The application was referred to Council's Traffic Engineer who provided the following comments in relation to the proposal:

*"The proposal comprises of 158 rooms for student accommodation with no on-site provision for student residents' car parking. However, the development will provide 94 bicycle parking bays [reduced to 50 spaces by amended plans received 16 November 2011], 7 motorbike parking spaces [increased to 31 spaces by amended plans received 16 November 2011] and one parking space dedicated to the building manager [additional two (2) spaces provided in amended plans submitted 16 November 2011].*

*A Traffic Impact Statement (TIS) (Traffix, Ref 11 249, dated 7 September 2011) was submitted in support of the development application. THE TIS mainly addresses the issue pertaining to the parking provision for the site. The parking requirements for the proposed development have been assessed based on a land use type defined as a 'boarding house'.*

*A review of the TIS was undertaken and comments are provided below:*

- *It is noted that the recently developed Consolidated Development Control Plan 2010 differentiates parking requirements according to the DCP Parking Area Map. As per Council's Draft DCP Parking Area Map, the site is located in an area designated as Parking Area 3 where car parking is considered to be least constrained. Section 2.10 of the Draft Consolidated DCP prescribes different car parking provision rates for the sub-sections of the LGA. Table 1 (DCP Section 2.10.5) notes that on-site car parking requirements for a boarding house located in Parking Area 3 would be 33 parking spaces. The TIS acknowledges this requirement but notes that the development will have little impact and is still supportable with no provision for student car parking.*
- *Council's car parking provision rates are aimed to improve the management of parking and promote sustainable transport across the LGA. The car parking provision rate schedule nominates a maximum number of car parking spaces to be provided for the proposed land use. Hence, in applying the rates, the development can nominate car*



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parking provisions that are lower than specified in Council's DCP parking provision guidelines. However, in doing so, the development must comply with the objectives of the transport and land use integration policy of Council and a justification for providing lower rates should be given. The TIS cites that having no on-site parking is justifiable on the basis of the following factors:

- Availability of public transport;
- Provision of 94 bicycle parking bays intended to encourage alternative modes of transport;
- Proximity to the University Campus;
- DCP control being 'generic' and generally area wide;
- Students will be actively encouraged to utilise public transport and will be provided with all relevant information.

Council's car parking strategy identifies the need to constrain car ownership/use and promote sustainable transport whenever feasible and Council appreciates the issues highlighted in the TIS. However, the above factors are deemed sufficient only to justify reduced car parking provisions and not to totally discount the provision of on-site parking.

- Although parking surveys have been undertaken to highlight the availability of parking capacity, it must be noted that the survey was only undertaken during a Thursday evening and is not considered enough to represent the likely parking demand. Noting the surrounding land use types, a weekend parking survey may be necessary to establish a more comprehensive profile of parking demand and availability for the purpose of servicing parking requirements of the site.
- The key issues that would potentially influence the demand for car parking in the vicinity of the site are identified as follows:
  - The site is adjacent to Camperdown Park. The Park may occasionally being used as a venue for special events requiring public parking. The on-street parking surrounding the park is expected to cater to such occasions. Hence, the demand and capacity for parking may vary.
  - Parking restrictions cannot be imposed along the adjacent streets in proximity to the park.
  - The site is in proximity to the University of Sydney and St John's College. As parking restrictions cannot be imposed, it can be expected that spill over parking demand from the University would utilise the adjacent areas.
  - The proximity of public transport services would encourage public transport usage and enable reduction in private car use. It is noted that in areas where public transport service are highly accessible, a reduction of around 50% in private car usage can be expected. Hence, the demand for car parking would be reduced.
  - Parking capacity in the area is already constrained. As noted in the photographs, most (if not all) of the parking spaces on the roads adjacent to the site are occupied. Although the survey results from observations taken on a Thursday night may have showed there is excess capacity, it still does not confirm that on-site parking is absolutely not required.

Hence, on the basis of the underlying principles of integrated transport and the objectives of Council's Draft DCP and parking strategy, the proposal can be merited on the arguments for reduced parking provisions but should still be required to provide a minimum number of on-site car parking spaces in order to comply with the requirements stipulated in Council's DCP.

The development proposal must include the following:

- Provision of at least fifty percent (50%) of the required parking spaces as specified in Council's DCP in addition to the prescribed bicycle and motorcycle parking requirements. This would equate to around 16 parking spaces for student residents and 1 for the caretaker.
- Undertake a weekend parking survey.



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- *Preparation of a Transport Access Plan to promote use of alternative modes of transport."*

Whilst there are some valid arguments in Council's Traffic Engineer's comments, the comments focus on the provisions contained in Council's draft Consolidated Development Control Plan 2010 which is not a matter for consideration in this application. Nonetheless and as detailed earlier, the proposal would require the provision of fifteen (15) car parking spaces for occupants and one (1) space for the on-site manager under DCP 19.

It is considered that the provision of car parking spaces for the proposal could conversely create significant traffic and parking implications for the surrounding area. To elaborate on this, the provision of any car parking on the site for use by future occupants is likely to create a perception amongst those occupants who own motor vehicles that car parking would be readily available for their use on the site. Notwithstanding the fact that the accommodation can be marketed as having restricted parking available on and around the site, the provision of even a fraction of the car parking required for such a proposal would be difficult to manage. This is due to the fact that the perception that car parking will be available on the site or surrounding streets is likely to result in a high number of occupants who own a motor vehicle wanting to reside at the premises and be provided with a parking space. This could therefore increase the traffic and parking congestion in the area.

However, the provision of no parking spaces on the site allows the accommodation to be marketed as a "car free development", as described by the applicant, and as an area with significantly limited on-street parking available. This would immediately remove the perception that car parking will be available on the site or on surrounding streets and is therefore anticipated to result in a lower number of occupants who own a motor vehicle considering taking up residence at the premises. It is acknowledged that this would not completely eliminate the possibility of occupants who own a motor vehicle choosing to reside at the premises. However, this is likely to significantly reduce the number of occupants who own a motor vehicle considering accommodation at the premises.

In addition to the above, the site is situated within an accessible area (as defined in State Environmental Planning Policy (Affordable Rental Housing) 2009) and as such is accessible by alternate modes of transportation. These alternate modes include frequent bus services which travel in east to west directions along Parramatta Road and Salisbury Road. The site is located within a 25 minute combined walk and bus ride journey to Central Railway Station from Parramatta Road or an approximate 20 minute walk to Newtown Railway Station.

The applicant advises that the accommodation would be marketed at the expanding tertiary student accommodation market, particularly for the various tertiary institutions in the area. Although it should be taken on face value, a letter from the University of Sydney was sent to the applicant commending them on the initiative to provide student accommodation and indicating that there is a current undersupply of approximately 5,000 to 6,000 beds for student accommodation needs to cater for students at the University of Sydney alone.

Part B.7.3 of DCP 19 specifies the following provisions relating to parking credits:

*"The Council will apply parking credits where there is a change of use to an existing building, or an existing building is being altered.*

*Except in exceptional circumstances, credits will not be applied where a site is being significantly or fully redeveloped.*

*Credits will be based on the parking requirements detailed in this plan. Development consents which detail parking credits will be taken into consideration in the assessment of Development Applications, and determined by Council on the basis that the objectives of this plan are not compromised."*



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Determination No. 11824, dated 31 August 1988, approved an application to carry out alterations to the premises for use by the N.S.W Nurses' Association, including offices, meeting rooms and associated storage. Condition 5 of the consent permitted the use of the premises by not more than forty seven (47) employees at any one time. A total of fifty two (52) car parking spaces were required to be provided for that approved use. Twenty four (24) car parking spaces were provided for the approved development and Council waived the requirement for the remaining twenty eight (28) car parking spaces required under the Car Parking Code applicable at that time.

The proposed development requires the provision of fifteen (15) car parking spaces and therefore there is a potential to apply a credit to the required parking spaces that are not provided given that the proposed use is less intense than the last approved use. The application proposes alterations to the existing building and essentially seeks to change the use of the existing building.

In order to determine whether the application of parking credits is appropriate, consideration of the objectives of DCP 19 is required. The aims and objectives of DCP 19 are listed below along with a brief discussion on how the proposal complies with those aims and objectives:

1. *To improve the integration between land use and existing transport networks.*

The aim/objective is considered to be a more generalised aim/objective of the Council itself which can be achieved by providing pedestrian footpaths, bus lanes on roads, bike routes and through site links in new developments. The proposal would not change the sites existing integration between the land use and existing transport networks. As detailed earlier, the site is situated within an accessible area and as such is accessible by alternate modes of transportation.

2. *To facilitate the safe entry and exit of vehicles and pedestrians.*

The application proposes to provide vehicular access to the basement level from Derby Lane which is the most practical location given the level of the basement would be up to 500 mm lower than the laneway itself which would eliminate the need for long ramps and transitions to be provided that would create poor sightlines.

3. *To ensure the effective design of parking areas.*

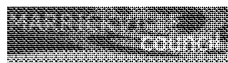
The design of the parking area is considered acceptable. The design and layout allow for the safe manoeuvring of motor vehicles, motorcycles, bicycles and pedestrians throughout the basement level and Derby Place entry/exit. The aisle widths are considered to be of appropriate size to allow for the safe passage of vehicles and pedestrians throughout the parking area.

4. *To provide convenient and safe parking for residents, workers and visitors and ensure the safety of pedestrians in the design of car parking areas.*

As stated in point 2 above, the proposed basement level eliminates the need for long ramps and transitions to be provided that would create poor sightlines and so the design of the proposed car parking area is considered to provide convenient and safe parking for residents, workers and visitors and ensure the safety of pedestrians.

5. *To encourage the use of bicycle as an alternate form of transport for work and non-work trips and enable the implementation and development of strategies contained in the Marrickville Bicycle Plan.*

The proposal includes a total of thirty one (31) motorcycle and fifty (50) bicycle parking spaces which would encourage the use of alternate forms of transport. Also, the accommodation is intended to be marketed as tertiary student accommodation and the site is located within close proximity to various tertiary institutions which provide limited and/or paid



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timed on-site parking which would further encourage the use of alternate forms of transport to the students main destination.

6. *To ensure the provision of adequate delivery and service areas and the orderly and effective operation of delivery and service areas within developments.*

The proposal includes one (1) car/van/ute loading space in the basement level and an additional space could be provided in the event that an agreement cannot be reached with a car share operator to provide a car share vehicle on site. The loading space is considered to be of adequate size to cater for the needs of future occupants given that the rooms are proposed to be furnished and the location is considered to allow for the orderly and effective operation of delivery and service area.

7. *To promote recognition and acceptance within the community of the equal rights of persons with disabilities to access buildings and areas required to be accessible.*

The proposal includes the provision of one (1) accessible parking space in the basement level along with all areas of the building being accessible by persons with disabilities. Seven (7) adaptable rooms are also proposed to be provided which complies with Council's adaptable rooms requirements under the provisions of Marrickville Development Control Plan No. 31 - Equity of Access and Mobility.

8. *To ensure that an appropriate level of public parking facilities are provided for use by shoppers and workers within the Marrickville Business Centres.*

This aim/objective is not relevant to this proposal as the site is not located within a business centre.

9. *To maintain the visual and environmental quality of the built environment.*

The limited size of the basement level and limited provision of car parking would ensure the visual and environmental quality of the built environment is maintained. Limiting the basement level footprint ensures that the visual impacts of the proposal are minimised and the provision of no car parking for occupants would discourage the use of motor vehicles and encourage the use of alternate forms of transport to maintain the quality of the environment.

10. *To ensure that car parking provision meets business and community demand.*

This aim/objective is not relevant to this proposal as it does not relate to a business or community development.

Given the above, it is considered that the previously waived twenty eight (28) car parking spaces can be credited to the site which would result in the proposed development not requiring any parking spaces to be provided. The proposal is therefore considered acceptable having regard to parking and traffic impacts.

**12. Marrickville Development Control Plan No. 27 - Waste Management**

The plans accompanying the application indicate that garbage and recycling bins would be stored in a bin storage room situated within the basement level of the building on the Derby Place elevation of the building. The location of the bin storage room is considered to acceptable and has been located in consultation with Council's Waste Services Section.

Marrickville Development Control Plan No. 27 - Waste Management (DCP 27) does not prescribe a specific waste/recycling generation rate for student accommodation. The proposed development is considered to be most akin to a boarding house. DCP 27 prescribes the following waste/recycling generation rates for boarding houses:





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- 60 litres per occupant per week for waste generation; and
- 20 litres per occupant per week for recyclable material generation

Based on those waste generation rates, the proposed on hundred and fifty four (154) occupant development would generate 9,240 litres of general waste and 3,080 litres of recyclable waste per week resulting in the proposed development requiring thirty nine (39) x 240 litre red lid general waste bins and thirteen (13) x 240 litre yellow lid recycling bin. The proposed bin storage room should therefore be able to accommodate a total of fifty two (52) bins.

The size of the proposed bin storage room measures 13.5 metres wide by 4.5 metres wide which equates to an area of approximately 61sqm. Based on the dimensions of a 240 litre waste storage bin being 735mm x 580mm (0.43sqm), the proposed bin storage room would be capable of accommodating the required fifty two (52) bins with adequate circulation space throughout.

Given the size and intensity of the proposed development, it is considered appropriate that a garbage chute system be incorporated into the proposal to service three residential floors. Although a chute system has not been indicated on the plans accompanying the application, this requirement could be imposed as a requirement by way of a condition on any consent granted for the proposal. Given that the application is recommended for refusal on other grounds, this matter was not pursued any further.

**13. Marrickville Development Control Plan No. 31 - Equity of Access and Mobility**

Marrickville Development Control Plan No. 31 - Equity of Access and Mobility (DCP 31) requires access and facilities to be provided for persons with a disability. The following access and mobility requirements are prescribed in DCP 31 for places of shared accommodation which have a total floor area exceeding 300sqm:

- Submission of a statement of consistency with the Disability Discrimination Act with any application;
- Six (6) adaptable rooms designed in accordance with AS4299 (for developments accommodating more than 99 persons); and
- Access to and throughout the development in accordance with AS1428.2 including access to any laundry, kitchen, sanitary and common facilities.

The proposed development includes seven (7) adaptable rooms in accordance with the above requirements. In addition, the communal living rooms and laundry are also accessible by persons with a disability and an accessible parking space has been proposed within the basement level of the building.

Overall, the proposed development is considered acceptable having regard to DCP 31.

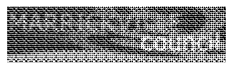
**14. Marrickville Development Control Plan No. 32 - Energy Smart Water Wise**

Marrickville Development Control Plan No. 32 - Energy Smart Water Wise (DCP 32) requires developments to be designed in an energy and water efficient manner.

The following comments are provided in the Statement of Environmental Effects accompanying the application having regard to energy and water efficiency:

*"Building sustainability is primarily demonstrated through compliance with Section J of the Building Code of Australia Report, found at Attachment X..."*

*The main environmental benefits associated with the development lie in the adaptive reuse of an existing building that is otherwise considered to be unable to be utilised to full extent. Whilst the scope of assessment for greenhouse gas emissions is generally difficult to define,*



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*the Australian Greenhouse Office notes that the reuse of building materials usually involves a saving of approximately 95 per cent of embodied energy that would otherwise be wasted (Commonwealth Department of Environment and Heritage, 2004).*

*The proposal does not constitute a BASIX Affected Development and therefore the requirements of State Environmental Planning Policy (BASIX) 2004 are not applicable to this site. The proposal employs a number of passive and active sustainability measures, aiming to achieve highest sustainable design within the constraints of working within an existing heritage listed building.*

*Working within the curtilage of an existing heritage listed building presents a number of constraints to the sustainable redevelopment of the site. The orientation and depth of the building are prohibitive to a full-floor refit for residential purposes. The proposal counters this problem through the creation of an atrium space, permitting internal light and ventilation whilst maintaining the heritage integrity of the site.*

**Cross ventilation**

*The creation of a large internal void promotes the ability to cross-ventilate the site. Louvered vents in the building façade allow air to be inducted into the site at a low elevation and then be drawn up through the void space to be vented at roof level, providing appropriate ventilation for units with windows to the internal court. Figure 19 (below) demonstrates the cross-ventilation effectiveness of the proposal.*

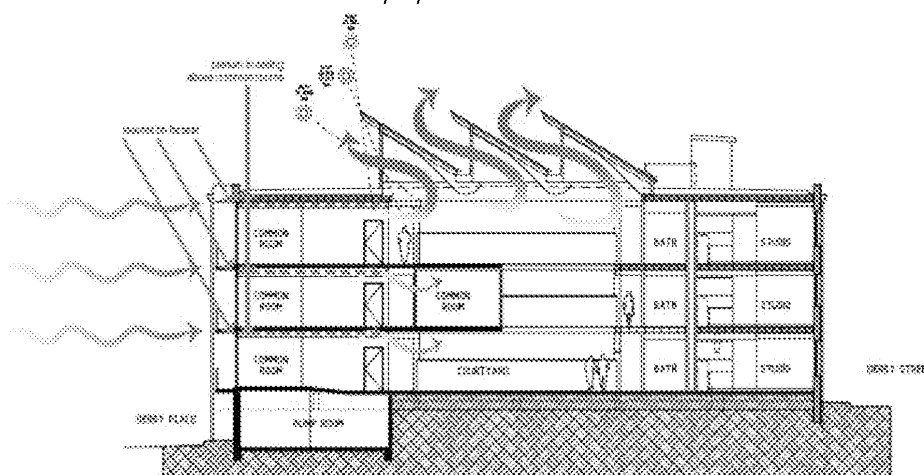
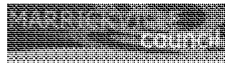


Image 19: Cross ventilation effectiveness

**Solar Access**

*The proposal is contained within the curtilage of an existing heritage building that is constructed to boundary. The existing configuration of the building does not permit effective direct solar access to all single occupancy units, however - given that these are primarily bedroom spaces, there is no specific requirement for solar access to these units. The majority of common areas are sited on the northern face of the building and/or receive direct daylight through the atrium roof space. The ground floor common open space is made possible through the creation of a void space through the centre of the building. It is not possible to provide direct sunlight to this space without compromising the heritage integrity of the building. External areas of public open space act as compensatory measures in this regard.*



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*Section J of the Building Code of Australia*

*Section J of the Building Code of Australia is the regulatory mechanism determining the building sustainability measures associated with this development. This matter is addressed in the Building Code of Australia Report at Attachment X of this Statement. Compliance with Section J of the BA will require a number of commitments with regards to materials and fittings, which will contribute further to the ongoing sustainability of the development.*

*Management*

*The requirement for all residents to adhere to a set of house rules and community standards provides the scope for environmental education beyond that which would normally be available in private residence.*

*Transport*

*The proposal is a 'car free' development, in recognition of the proximity both to public transport on Parramatta Road, and to a single likely destination. By encouraging residents to choose walking as a preferred commuting mode, the proposal will produce significantly fewer transport related emissions than an alternative use of the site. Likewise, the location of residents proximate to their likely week-day destination will also reduce emissions that may otherwise have been associated with their commute, should they have resided outside the walking catchment of the university."*

Overall, the proposal is considered to have been designed in an energy and water efficient manner. If the proposal is supported and consent is granted, conditions should be imposed on any such consent covering the following matters:

- All new or replacement toilets are to be dual flush;
- All new or replacement hot water systems are to have a minimum 3.5 star greenhouse rating;
- Any air-conditioning units are to be energy efficient SEDA rated where natural ventilation is not possible. Minimum 4 star rating for cooling only, and minimum 4 star on one cycle and 3 star on the other cycle for reverse cycle models; and
- Submission of a Comprehensive Water Cycle Assessment with details regarding the potential for water recycling and reuse on site.

**15. Marrickville Development Control Plan No. 35 - Urban Housing (Volume 2)**

Marrickville Development Control Plan No. 35 - Urban Housing (Volume 2) (DCP 35) was adopted concurrently with MLEP 2001. DCP 35 provides guidance for the design and assessment of new development. Although not strictly applicable to this proposal, the proposed development is most akin to a residential flat building in form and it is therefore considered appropriate to apply the controls relating to residential flat buildings from DCP 35 to this proposal. The following is a summary of the applicable provisions from DCP 35:

(i) Solar Access, Ventilation, Energy and Water Efficiency

**Solar Access**

The solar access requirements for boarding house developments are more relevantly covered by the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 and have been discussed earlier in this report.

**Overshadowing**

In relation to overshadowing, DCP 35 requires that:



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*"Direct solar access to the windows of principal living areas and to the principal area of open space, of adjacent dwellings must not be reduced:*

- a) to less than 2 hours between 9.00am and 3.00pm on 21 June; and*
- b) where less than 2 hours of sunlight is currently available in June, it should not be further reduced..."*

Detailed shadow diagrams for 9.00am, 12.00 noon and 3.00pm at the winter solstice on 21 June accompanied the application illustrating the existing and proposed overshadowing impacts of the building onto adjoining properties.

The diagrams illustrate that the additional overshadowing from the proposed additions to the building would be cast onto the roof of the building itself and that the proposal would not cast any additional overshadowing onto adjoining properties.

***Energy and Water Efficiency***

The energy and water efficiency of the proposal has been discussed in detail earlier in this report under the heading "Marrickville Development Control Plan No. 32 - Energy Smart Water Wise".

***Ventilation and Internal Amenities***

DCP 35 requires that *"All habitable rooms shall be provided with an openable window or openable skylight, that satisfies the requirements of the BCA"*.

The proposed development provides openable windows to all rooms in the development and so complies with this requirement.

(ii) On-Site Detention (OSD) of Stormwater

The application was referred to Council's Development Engineer for comment who advised that on-site detention of stormwater is not required for this proposal.

(iii) Flooding and the Cooks River Flood Plain

The property is located within an area identified as flood prone land on Council's "Approximate 100 Year (1% AEP) Flood Extent" Map. The application was referred to Council's Development Engineer who provided the following comments in relation to the proposal:

*"The site is subject to flooding. The 1 in 100 year flood level for this location of Australia Street is RL 15.3 metres AHD with floor levels to habitable areas of the building required to be at RL 15.8 metres AHD providing 500mm of freeboard."*

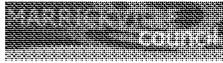
The plans accompanying the application detail the lowest RL level of the ground floor as being set at RL 16.17 metres AHD which is above the determined 1 in 100 year flood level.

(iv) Site Contamination

This matter has been discussed in detail earlier in this report under the heading "State Environmental Planning Policy No. 55 - Remediation of Land and Marrickville Development Control Plan No. 29 - Contaminated Land Policy and Development Controls".

(v) Floor Space Ratio and Site Coverage

The FSR of the proposed development has been discussed earlier in this report under the headings "State Environmental Planning Policy (Affordable Rental Housing) 2009" and "Marrickville Local Environmental Plan 2001".



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DCP 35 does not prescribe a maximum site coverage control for applications involving the residential conversion of former industrial/warehouse buildings and states that *"There are no specified requirements for warehouse/industrial conversions, given that in most cases this form of development entails working within an existing building envelope"*.

The existing building is built to a zero lot line to all boundaries which results in a site cover of 100%. The application does not seek to increase or decrease the existing site coverage as part of the proposed works.

### (vi) Building Height

No maximum building height is specified under DCP 35 for applications involving the residential conversion of former industrial/warehouse buildings. The DCP states in relation to building height, *"in most instances the conversion of such buildings, involves working with an existing building envelope. Where additional height is desired, the main determining factors will be the street context and whether the architectural style/character of the building can accommodate an increase in height"*.

The proposed development seeks consent to carry out alterations to the existing building to convert the building into student accommodation. All of the works, with the exception of roof additions, are situated within the existing building envelope. The proposal would not alter the height of the existing building other than the additional roof vents which are situated above the existing roof and are considered to have an acceptable impact on the locality.

### (vii) Building Setbacks

The setback requirements of DCP 35 are not relevant to this application given that the proposal seeks consent to reuse the existing built form.

### (viii) Streetscape, General Appearance and Materials

#### ***Façade and Streetscape Design***

The proposal seeks to retain all façades of the existing building. The proposed works include repair and maintenance of the façades including stripping of the painted Australia Street façade to expose the brickwork. An external photomontage of the proposal has been provided earlier in this report as image 15 which illustrates that the proposal would have an acceptable façade and appearance.

#### ***Bulk and Scale Relationship***

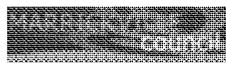
As discussed throughout this report, the proposal seeks consent to retain the existing building and adaptively reuse the building for student accommodation. The proposal would not alter the buildings existing bulk and scale and is therefore considered appropriate.

#### ***Materials, Finishes, Textures and Colours***

As discussed above, the proposal seeks to retain all façades of the existing building. The proposed works include repair and maintenance of the façades including stripping of the painted Australia Street façade to expose the brickwork to match the remaining façades. An external photomontage of the proposal has been provided earlier in this report as image 15 which illustrates that the proposed materials, finishes and colours would be acceptable.

The existing building consists of aluminium windows which were replacement windows to those originally installed when the building was constructed. The application proposes to replace all the windows of the building in order to provide window details for appropriate separation between the





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proposed rooms within the development. All new windows are proposed to be contained within the existing façade penetrations.

(ix) Site Facilities and Waste Management

Council's requirements in relation to the provision of site facilities and waste management include requirements for clothes drying facilities, garbage collection and recycling facilities, mail boxes and the like. Each of those aspects is discussed under their respective headings below.

***Clothes Drying Facilities and Laundries***

The plans accompanying the application indicate a communal laundry being provided on the ground floor of the proposal containing six (6) washers and seven (7) dryers to cater for the needs of future occupants. Although DCP 35 specifically states that "*communal laundries shall not be permitted*", the provisions of DCP 35 are more relevantly applicable to development for the purpose of a residential flat building or multi unit housing rather than shared accommodation such as that proposed in this application.

Council's planning instruments do not contain any controls relating to the provision clothes washing facilities. With the absence of such controls, the City of Sydney's Tourist and Visitor Accommodation Development Control Plan 2006 has been used to provide a guide on an acceptable number of washing machines and dryers that should be provided for this proposal. The DCP specifies that one (1) clothes washing machine and clothes dryer must be provided for every 50 residents or part thereof in bed and breakfast or backpacker accommodation proposals.

The provision of six (6) washing machines and seven (7) dryers in this proposal would result in each washing machine being shared between twenty six (26) occupants and each dryer being shared between twenty two (22) occupants which are considered acceptable given the above.

***Garbage and Recycling Storage Facilities***

This matter has been discussed earlier in this report under the heading "Marrickville Development Control Plan No. 27 - Waste Management".

***Numbering of Buildings***

Details regarding building numbering were provided on plans accompanying the application. If the proposal is supported and consent is granted for the proposal, a condition should be imposed on any such consent requiring a street number to be placed on the site in a readily visible location prior to the issue of a final Occupation Certificate for the development.

***Mail Boxes***

Details regarding the provision and location of mail boxes were submitted with the application and are considered appropriate. A single external mailbox is proposed to be provided on the Australia Street frontage close to the building entrance. Individual mailboxes for each room are proposed to be provided internally in close proximity to the lobby and reception area. Mail distribution from the external mailbox to the individual mailboxes is proposed to be undertaken by the on-site manager.

(x) Visual and Acoustic Privacy

The proposal contains a significant amount of windows on the southern elevation servicing some of the proposed rooms which could provide some opportunity for overlooking into adjoining properties. The photographs reproduced below provide an idea of the potential overlooking and visual privacy impacts the proposal could have on the adjoining properties to the south of the site:



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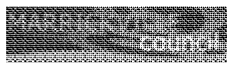


*Image 20: View from first floor across Derby Street to 47 Australia Street*



*Image 21: View from first floor across Derby Street to 17-23 Derby Street*





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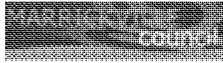


Image 22: View from first floor across Derby Street to 9-15 Derby Street



Image 23: View from second floor across Derby Street to 15-19 Derby Street





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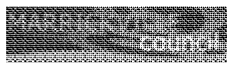


Image 24: View from second floor across Derby Street to 9-11A Derby Street



Image 25: View from rooftop across Derby Street to 47 Australia Street and 17-23 Derby Street





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Image 26: View from rooftop across Derby Street to 11A and 15 Derby Street



Image 27: View from rooftop across Derby Street to 1-11 Derby Street





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As the above images illustrate, the opportunities for overlooking a quite limited with the road separating the subject building from adjoining properties. The visual privacy impacts of the proposal are considered to be acceptable having regard to the above and the existing site constraints.

As mentioned earlier in this report, the proposed development will require noise attenuation from aircraft noise which will provide suitable levels of acoustic amenity between rooms in the development and from within the site to adjoining properties. No external open space areas are proposed that would provide acoustic amenity impacts on adjoining residential properties.

(xi) Safety and Security

This matter has previously been addressed under the Community Safety considerations of Marrickville Local Environmental Plan 2001 and also discussed in further detail later in this report under the heading "Marrickville Development Control Plan No. 38 - Community Safety".

(xii) Landscape and Open Space

Given that the proposal seeks consent to reuse the existing building, there is limited opportunity for landscaping to be provided for this proposal.

The open space component of the proposal has been discussed earlier in this report under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009.

(xiii) Heritage Conservation

Part 2D of DCP 35 contains a number of objectives and control relating to development involving heritage items and development in heritage conservation areas. The following summarises the proposal's compliance with the requirements outlined in this part of the DCP:

- The proposal seeks to retain and refurbish the heritage item as encouraged by control C1;
- The application was accompanied by a Conservation Management Plan (CMP), Heritage Impact Statement (HIS) and Assessment of Heritage Impact for Permissible Uses, prepared by Rappaport Heritage Consultants, who are considered to be experienced practitioners who have heritage conservation experience and are aware of the issues involved in dealing with such a site as encouraged by control C2;
- As discussed in other sections of this report, the proposed alterations and additions would not adversely impact on the street frontage, nor involve the removal of significant elements or original external features to the property as encouraged by control C4;
- The proposed changes respect the form, proportion, scale, details and materials of the original building as encouraged by control C5;
- The proposed alterations and additions would not be visible or potentially visible from any point in the street or adjoining streets, and the height would not be seen above the main ridge line of the building as encouraged by control C7;
- The required aircraft noise attenuation works can be conditioned so as to not detract from the streetscape values of the building by removing or covering significant building fabric or details as encouraged by control C10;
- The proposal includes removal of the paint finish on the Australia Street façade to re-expose the face brick as encouraged by control C15; and
- The proportioning of the proposed new windows the respects the form and scale of the existing windows on the building as encouraged by control C16.

Overall, the proposal is considered to be acceptable on heritage grounds.



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**16. Marrickville Development Control Plan No. 38 - Community Safety**

Marrickville Development Control Plan No. 38 - Community Safety (DCP 38) requires consideration of community safety for any Development Application. The provisions of DCP 38 are broadly based on the four Crime Prevention Through Environmental Design (CPTED) principles.

The Statement of Environmental Effects accompanying the application provides a detailed assessment of the proposal having regard to the applicable provisions of DCP 38. In addition, the statement provides the following comments in relation to the proposal's compliance with the four CPTED principles:

*"The design of the proposal has been developed in consultation with the Newtown Local Area Command (NSW Police Force) and has given consideration to the principles of crime prevention through environmental design (CPTED) as prescribed by the Department of Planning guidelines 'Crime Prevention and the Assessment of Development Applications' (2001). The principles are applied in the proposed development as follows.*

*Surveillance: Clear sightlines are maintained between the public domain and the entry points of the building. Australia Street is well illuminated with street lighting, particularly at the pedestrian crossing at the entrance to the site. The existing nearby residential uses and the residential intensification occurring to the north of the site provides for neighbourhood surveillance, improving safe travel paths for residents to key destinations. A sophisticated level of electronic video surveillance will be employed at entries to the site.*

*Access Control: Residents will be issued with a unique electronic access card that can be deactivated in case of loss or theft. The lobby area of the development will be publically accessible during business hours (8am-5pm) per the provisions of the Operational Plan of Management and accessed by electronic card outside these times. All areas beyond the lobby area will be access controlled at all times, as will all individual rooms.*

*Territorial Reinforcement: The island site is unambiguous in its territorial boundaries. All public access is via a single lobby, and the delineation between this semi-public space and the residents/guests-only area beyond is clearly defined through access control measures. The common basement is access controlled and electronically monitored, to further reinforce its private nature.*

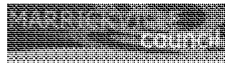
*Space Management: The publicly accessible areas of the site will be controlled and monitored by CCTV. Some of the most common criminal activities include malicious damage to property, assault, theft, break and enter to dwellings and commercial premises, and theft from a motor vehicle. These forms of incidents would be sensitive to the introduction of security hardware and personnel within the complex. CCTV will be of a quality high enough to enable intruder identification. A 24-48 hour rapid response graffiti removal policy will be implemented to maintain the appearance of the property."*

The proposal is considered to be generally consistent with the community safety controls prescribed by DCP 38 and CPTED principles in the following ways:

- The building will provide casual surveillance of the adjoining public areas including all four streets which surround the site;
- The existing building has been constructed on a zero lot line to all street boundaries thereby eliminating any entrapment alcoves and providing clear territorial reinforcement and appropriate space management;
- The design and location of the building entrances ensures direct, obvious and secure entries are provided promoting territorial reinforcement and space management;
- The design and location of the communal areas are clearly defined, encourage natural surveillance by the occupants and users and encourage a sense of ownership;

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Attachment 1



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- Unintended access would be minimised by the provision of security measures providing secure entries to the building; and
- Building identification is proposed to consist of building numbering and emphasis of the building entry from Australia Street.

Given the above, the proposed development is considered acceptable having regard to the relevant community safety provisions prescribed by DCP 38.

**17. Community Consultation**

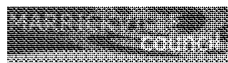
The application was advertised, an on-site notice was erected and residents/property owners in the vicinity of the subject property were notified of the proposed development in accordance with Council's Policy. Twelve (12) submissions were received raising the following concerns which have been addressed in the assessment provided throughout this report:

(i) Parking and Traffic:

- The proposal includes no car parking for residents and visitors;
- Approval of the application with no car parking would reduce the availability of on-street parking;
- A reduction of on-street parking would result in the public not being able to use Camperdown Park;
- The surrounding streets would become congested with cars;
- Future occupants of the proposed development should not be entitled to parking permits for the resident parking scheme in the area;
- The Denison Street and Derby Street intersection along with Derby Place are dangerous and intensification of use of the site would exacerbate the dangerous nature of the intersection and narrow street;
- The Traffic Impact Statement does not adequately provide survey details of the existing traffic and parking situation;
- The proposed projecting sun shades would require trucks to drive closer to the adjoining child care centre on Derby Place;
- Public transport is not as readily available on Parramatta Road as stated in the Traffic Report;
- The promotion of walking to and from the site is compromised as there is a lack of services within walking distance of the site;
- The proposed development cannot guarantee that the resident's destination would have suitable bicycle parking/storage facilities to promote the use of bicycles;
- The Traffic Impact Statement relies on the assumption that all residents would be students of Sydney University with no assurance that this would be the case;
- The Traffic Impact Statement does not survey an entire day and does not address the availability of parking before 4:00pm; and
- One (1) accessible car parking space has not been provided for each adaptable room proposed.

(ii) Management and Compliance:

- Suggestions made that the caretaker/on-site manager should be contactable at all times by surrounding residents if problems arise with residents;
- Council would not be adequately resourced to ensure compliance in the operation and management of the premises; and
- State Environmental Planning Policy (Affordable Rental Housing) 2009 states that not more than two (2) adult lodgers should be permitted to live in each room in a boarding house; Concerns raised that this requirement would not be complied with and up to 1,580 residents could be living at the premises.



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(iii) Density/Intensification:

- The density of the development is excessive;
- The proposed development is an overdevelopment of the site;
- The current student accommodation crisis in Australia will lead to the building being overcrowded with residents; and
- The surrounding infrastructure network would not be able to cope with the intensification of use of the site.

(iv) Amenity and Privacy:

- Visitors coming to and from the property would impact on the amenity of surrounding residents, particularly during late hours of the night and over weekends;
- A maximum of two (2) adult lodgers should be permitted to live in each room in line with the requirements of the boarding house requirements of State Environmental Planning Policy (Affordable Rental Housing) 2009;
- Future residents would increase noise in the area;
- A noise control plan should be submitted;
- Some existing windows of the building would provide overlooking opportunities directly into windows of adjoining properties; and
- The proposed development would increase levels of dangerous litter in the area.

(v) Built Form and Character:

- Approval of the application would set a precedent for similar proposals in the area;
- The proposed development is not compatible with the character of existing residential development in the area; and
- The building exceeds Council's floor space ratio (FSR) development standard of 0.7:1 for boarding houses with a proposed FSR of 2.5:1.

(vi) Safety and Security/Community Safety:

- The building is isolated on its own block with no residents adjoining the site which would result in neighbouring residents being unable to identify when there are issues on the site;
- Future residents would increase violence and crime rates in the area as both victims and perpetrators of violence and crime; and
- The proposed increased pedestrian traffic would inhibit the ability of the adjoining child care centre to identify residents and maintain the safety of children.

(vii) Heritage:

- Concerns raised that the proposal does not adequately address the heritage conservation incentives requirements under Clause 54 of Marrickville Local Environmental Plan 2001.

(viii) Stormwater:

- On-site detention is required and has not been proposed.

(ix) Laundry:

- A communal laundry is proposed which is inconsistent with the requirements of Marrickville Development Control Plan No. 35 - Urban Housing (Volume 2) which specifically prohibits communal laundries from being provided.



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All relevant matters raised in the submissions able to be considered under the provisions of Section 79C of the Environmental Planning and Assessment Act have been discussed in the report. There is no evidence to support assertions about behaviour of future occupants of the building.

#### **18. Conclusion**

The heads of consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, as are of relevance to the application, have been taken into consideration in the assessment of this application.

The proposed development is only permissible if the consent authority is satisfied that the retention of the building that is a heritage item depends on the granting of consent and the proposed development satisfies all the heritage incentives provisions contained in Clause 54 (1) of Marrickville Local Environmental Plan 2001. If the proposed development fails to satisfy one or more of those provisions, the proposed development is prohibited under the zoning provisions applying to the land under Marrickville Local Environmental Plan 2001. As canvassed in the assessment provided throughout this report, the proposed development does not satisfy a number of the heritage conservation incentives provisions in Clause 54 (1) of Marrickville Local Environmental Plan 2001 and as such the proposed development is prohibited.

In view of the circumstances the application is recommended for refusal.

#### **PART E - RECOMMENDATION**

- A. THAT** the development application to carry out alterations and additions to the existing heritage listed building on the site for its adaptive reuse for the purpose of student accommodation comprising a comprising a total of 12 multiple occupancy rooms and 111 single occupancy rooms, to accommodate up to a total of 154 residents, and a manager's residence pursuant to the heritage conservation incentives provisions contained in Clause 54 of Marrickville Local Environmental Plan 2001 be **REFUSED** for the following reasons:
1. The proposed development does not satisfy the heritage incentive provisions in Clause 54 (1) of Marrickville Local Environmental Plan 2001 and as such the proposed development is prohibited.
  2. The proposed use of the premises would constitute a "boarding house" under the definitions contained in Marrickville Local Environmental Plan 2001 which is a prohibited use under the Light Industrial zoning applying to the land.
  3. In view of the above, approval of the application would not be in the public interest.
- B. THAT** those persons who lodged submissions in respect to the proposal be advised of the Joint Regional Planning Panel's determination of the application.



**Report No:** C1211(1) Item 2

**Subject:** PEDESTRIAN, CYCLIST & TRAFFIC CALMING ADVISORY COMMITTEE  
MEETING HELD TUESDAY 15 NOVEMBER 2011

**File Ref:** 3337/65478.11

**Prepared By:** George Tsaprounis - Traffic Engineer

## SYNOPSIS

The Pedestrian, Cyclist & Traffic Calming Advisory Committee held a meeting on Tuesday 18 October 2011 to discuss 15 items.

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## RECOMMENDATION

**THAT the recommendations in Section B and Section C of the Pedestrian, Cyclist & Traffic Calming Advisory Committee held on Tuesday 15 November 2011 be adopted.**

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## DISCUSSION

The minutes of the Pedestrian, Cyclist & Traffic Calming Advisory Committee (PCTCAC) Meeting (**ATTACHMENT 1**) summarise the discussion which occurred at the meeting and recommendations for adoption.

**Section A** of the business paper relates to Town Planning and Development matters referred to the Committee for technical advice and comment relating to traffic issues. Recommendations of the PCTCAC are submitted for consideration by Council's Development Assessment Section in formulating consent conditions and recommendations concerning developments. No items were considered in Section A.

**Section B and Section C** of the business paper relates to traffic and parking matters respectively. Recommendations of the PCTCAC are submitted for consideration and adoption by Council.

## RECOMMENDATION

**THAT the recommendations in Section B and Section C of the Pedestrian, Cyclist & Traffic Calming Advisory Committee held on Tuesday 15 November 2011 be adopted.**

Neil Strickland  
Director, Infrastructure Services

## ATTACHMENTS

1. Minutes Pedestrian, Cyclist and Traffic Calming Advisory Committee 15 November 2011
2. Agenda Pedestrian, Cyclist and Traffic Calming Advisory Committee 15 November 2011 (circulated as separate document)

**MINUTES OF THE PEDESTRIAN, CYCLIST AND TRAFFIC CALMING ADVISORY COMMITTEE  
HELD ON TUESDAY 15 NOVEMBER 2011**

**THE MEETING COMMENCED AT 1.32 PM**

**PRESENT**

**Committee representatives:**

Clr Mary O'Sullivan	Councillor, South Ward (Chair)
Ms Maria Katsogiannis	Representative for Carmel Tebbutt MP
	Member for Marrickville
Mr Nicolas Kocoski	Roads and Maritime Services (RMS)
Cst Stuart L Owen	Newtown Police

**Councillors and Officers in attendance:**

Mr Roger Castle	State Transit Authority
Mr Wal Petschler	Council's Manager, Design and Investigation
Mr George Tsaprounis	Council's Traffic Engineer
Mr Ramy Selim	Council's Traffic Officer
Ms. Clara Welsh	Council's Administration Assistant
Ms Tina Zhou	From the office of Carmel Tebbutt MP

**Visitors:**

Nil

**1. Apologies**

Clr Sam Iskander	Deputy Mayor, Central Ward
Clr Morris Hanna OAM	Mayor, South Ward
Ms Maria Pasten	Representative for Linda Burney MP
	Member for Canterbury
L S/C Stephen Flanagan	Marrickville Police
Cst Denis Maher	Marrickville Police
Mr Peter Whitney	State Transit Authority
Ms Jennifer Adams	Traffic Officer

**2. Disclosures of Interest**

Nil

**3. Council resolution relating to Pedestrian, Cyclist and Traffic Calming Advisory  
Committee Meeting minutes of meeting held Tuesday 18 October 2011.**

The Pedestrian, Cyclist and Traffic Calming Advisory Committee's recommendations of its meeting held on Tuesday 18 October 2011 were adopted at Council's meeting held on Tuesday 15 November 2011.

#### 4. Agenda Items

### SECTION "A" - TOWN PLANNING MATTERS

No items in this Section.

### SECTION "B" - TRAFFIC MATTERS

<b>Item No:</b>	<b>B1</b>
<b>Subject:</b>	<b>TRAFFIC COMMITTEE MEETING SCHEDULE FOR 2012</b>
<b>File Ref:</b>	<b>14532-08</b>
<b>Author:</b>	<b>Ramy Selim – Traffic Officer</b>

#### Synopsis

The proposed schedule of the Pedestrian, Cyclist and Traffic Calming Advisory Committee meetings has been prepared for the 2012 calendar year. It is recommended that the proposed meeting schedule be received and noted.

#### Traffic Committee Discussion

The Committee members agreed with the Officer's recommendation.

#### Officer's Recommendation:

**THAT** the proposed schedule of meetings of the Pedestrian, Cyclist and Traffic Calming Advisory Committee for the 2012 calendar year be received and noted.

#### Traffic Committee Recommendation:

**THAT** the Officer's recommendation be adopted.

**For Motion:** Unanimous

<b>Item No:</b>	<b>B2</b>
<b>Subject:</b>	<b>UNION STREET, TEMPE (SOUTH WARD) APPROVAL OF 'NO RIGHT TURN' FROM PRINCES HIGHWAY</b>
<b>File Ref:</b>	<b>3479</b>
<b>Author:</b>	<b>George Tsaprounis - Traffic Engineer</b>

#### Synopsis

Council has now received an approval of the Traffic Management Plan (TMP) for the proposal to implement a full time 'No Right Turn' ban from the Princes Highway into Union Street from the Roads and Maritime Services (RMS). As a condition of the implementation of the "No Right Turn" into Union Street, the RMS has requested a Right Turn Phase from the Princes Highway into Smith Street.

The Traffic Signal Plan has been amended accordingly and resubmitted to the RMS for approval. A contractor is to be engaged once this approval is given. The road closure on Union Street is to be removed once the removal of the 'No Right Turn' is completed in accordance with Council's resolution.

### **Traffic Committee Discussion**

The Committee members agreed with the Officer's recommendation.

### **Officer's Recommendation:**

**THAT** the report be received and noted.

### **Traffic Committee Recommendation:**

**THAT** the Officer's recommendation be adopted.

**For Motion:** Unanimous

<b>Item No:</b>	<b>B3</b>
<b>Subject:</b>	<b>UNION STREET, TEMPE (SOUTH WARD) PROPOSED TWO-WAY SECTION OF UNION STREET BETWEEN BROOKLYN LANE &amp; PRINCES HIGHWAY</b>
<b>File Ref:</b>	<b>3479</b>
<b>Author:</b>	<b>George Tsaprounis - Traffic Engineer</b>

### **Synopsis**

For Council to consider a report on the implications of making a section of Union Street two-way, between Brooklyn Lane and the Princes Highway and allowing for a right hand turn into the Princes Highway from Union Street, Tempe.

It is recommended that Council not proceed with the proposal to make the section of Union Street between Brooklyn Lane and the Princes Highway two-way.

### **Traffic Committee Discussion**

Council's Traffic Engineer summarised the contents of the report and outlined the advantages and disadvantages of the proposal.

The RMS' representative supported the Officer's recommendation not to proceed with the proposal to provide a two-way section of Union Street, between Brooklyn Lane & Princes Highway and to not allow for a right hand turn into the Princes Highway from Union Street.

He raised his concern with vehicles turning left from Princes Highway into Union Street will be crossing the road centreline due to limited lane width. He also raised concerns with a split approach signal operation (i.e. a green phase), at Union Street and Smith Street, as it will reduce the efficiency of this intersection on Princes Highway.

He also stated that an existing shop awning on Princes Highway and a Large Telstra pit may need to be modified to accommodate the traffic signal posts and get the signal hardware installed.

He further stated that making this section of Union Street two-way will encourage more traffic to travel on Brooklyn and Zuiton lanes, which are not intended to carry through traffic. He also stated that vehicles coming out of Union Street onto Princes Highway will have sight distance issues with pedestrians. The option for a red arrow and pedestrian crossing phase will further add to the reduction of capacity and efficiency of the intersection.

The Committee members were advised that the RMS has jurisdiction over all matters on roads within 30 metres from traffic signals. The RMS' representative stated that this intersection is also located on a State Road and the costs associated with works to modify the intersection will need to be considered. The RMS will not support this proposal.

The Committee members agreed with the Officer's recommendation.

**Officer's Recommendation:**

**THAT** Council NOT proceed with the proposal to provide a two-way section of Union Street, between Brooklyn Lane & Princes Highway, Tempe.

**Traffic Committee Recommendation:**

**THAT** the Officer's recommendation be adopted.

**For Motion:** Unanimous

**SECTION "C" - PARKING MATTERS**

<b>Item No:</b>	<b>C1.1</b>
<b>Subject:</b>	<b>CAMDEN STREET, NEWTOWN (NORTH WARD)</b>
<b>File Ref:</b>	<b>S0740-02</b>
<b>Author:</b>	<b>Jenny Li – Traffic Officer</b>

**Synopsis**

A request has been received from a resident of Camden Street, Newtown for the provision of a dedicated mobility parking space outside their residence. It is recommended that a 'Mobility Parking' space be approved as the applicant's condition necessitates the use of a wheelchair for mobility and their off-street parking space is not wide enough for use by people with a disability.

**Traffic Committee Discussion**

The Committee members agreed with the Officer's recommendation.

**Officer's Recommendation:**

**THAT;**

A dedicated 'Mobility Parking' space be approved on the eastern side of Simmons Street, Newtown, at the side boundary of property No. 57 Camden Street and adjacent to the existing 'No Stopping' restrictions, subject to:

- The operation of the dedicated parking space be valid for twelve (12) months from the date of installation;
- The applicant advising Council of any changes in circumstances affecting the need for the special parking space; and
- The applicant be requested to furnish a medical certificate and current mobility permit justifying the need for the mobility parking space for its continuation after each 12 month period.



**Traffic Committee Recommendation:**

**THAT** the Officer's recommendation be adopted.

**For Motion:** Unanimous

**Item No:** C1.2  
**Subject:** LINCOLN STREET, STANMORE (NORTH WARD)  
 REQUEST FOR MOBILITY PARKING SPACE OUTSIDE PROPERTY No. 34  
**File Ref:** S2920-02  
**Author:** Jenny Li – Traffic Officer

**Synopsis**

A request has been received from a resident Lincoln Street, Stanmore for the provision of a dedicated mobility parking space outside their residence. It is recommended that a 'Mobility Parking' space be approved as the applicant's condition necessitates the use of a wheelchair for mobility and their off-street parking space is not wide enough for use by people with a disability.

**Traffic Committee Discussion**

The Committee members agreed with the Officer's recommendation.

**Officer's Recommendation:**

**THAT;**

A dedicated 'Mobility Parking' space be approved on the northern side of Rosevear Street, Stanmore, at the side boundary of property No. 34 Lincoln Street, subject to:

- a. The operation of the dedicated parking space be valid for twelve (12) months from the date of installation;
- b. The applicant advising Council of any changes in circumstances affecting the need for the special parking space; and
- c. The applicant be requested to furnish a medical certificate and current mobility permit justifying the need for the mobility parking space for its continuation after each 12 month period.

**Traffic Committee Recommendation:**

**THAT** the Officer's recommendation be adopted.

**For Motion:** Unanimous

<b>Item No:</b>	<b>C1.3</b>
<b>Subject:</b>	<b>LIVINGSTONE ROAD, MARRICKVILLE (CENTRAL WARD) REQUEST FOR MOBILITY PARKING SPACE OUTSIDE PROPERTY No. 127</b>
<b>File Ref:</b>	<b>S2960-03</b>
<b>Author:</b>	<b>Jenny Li – Traffic Officer</b>

### **Synopsis**

A request has been received from a resident of Livingstone Road, Marrickville for the provision of a dedicated mobility parking space outside their residence. It is recommended that a 'Mobility Parking' space not be approved as the applicant's property has an off-street parking facility which is considered to be adequate for people with a disability.

### **Traffic Committee Discussion**

The Committee members agreed with the Officer's recommendation.

### **Officer's Recommendation:**

**THAT** a dedicated 'Mobility Parking' space NOT be approved outside 127 Livingstone Road, Marrickville, as the applicant's property has an off-street parking facility which is considered to be adequate for people with a disability.

### **Traffic Committee Recommendation:**

**THAT** the Officer's recommendation be adopted.

**For Motion:** Unanimous

<b>Item No:</b>	<b>C1.4</b>
<b>Subject:</b>	<b>BRIGHT STREET, MARRICKVILLE (CENTRAL WARD) REQUEST FOR MOBILITY PARKING SPACE OUTSIDE PROPERTY No. 21</b>
<b>File Ref:</b>	<b>S0580-01</b>
<b>Author:</b>	<b>Jenny Li – Traffic Officer</b>

### **Synopsis**

A request has been received from a resident Bright Street, Marrickville for the provision of a dedicated mobility parking space outside their residence. It is recommended that a 'Mobility Parking' space be approved as the applicant's condition necessitates the use of a wheelchair for mobility and their off-street parking space is not wide enough for use by people with a disability.

### **Traffic Committee Discussion**

The Committee members agreed with the Officer's recommendation.

**Officer's Recommendation:**

**THAT** a dedicated 'Mobility Parking' space be approved on the eastern side of Bright Street, Marrickville, outside of property No. 21, subject to:

- a. The operation of the dedicated parking space be valid for twelve (12) months from the date of installation;
- b. The applicant advising Council of any changes in circumstances affecting the need for the special parking space; and
- c. The applicant be requested to furnish a medical certificate and current mobility permit justifying the need for the mobility parking space for its continuation after each 12 month period.

**Traffic Committee Recommendation:**

**THAT** the Officer's recommendation be adopted.

**For Motion:** Unanimous

Item No:	C1.5
Subject:	ENGLAND AVENUE, MARRICKVILLE (CENTRAL WARD) REQUEST FOR MOBILITY PARKING SPACE OUTSIDE PROPERTY No.35
File Ref:	S1600-02
Author:	Jenny Li – Traffic Officer

**Synopsis**

A request has been received from a resident of England Avenue, Marrickville for the provision of a dedicated mobility parking space outside their residence. It is recommended that a 'Mobility Parking' space not be approved as the applicant's property has an off-street parking facility and the applicant's condition does not necessitate the use of a wheelchair for mobility.

**Traffic Committee Discussion**

The Committee members agreed with the Officer's recommendation.

**Officer's Recommendation:**

**THAT** a dedicated 'Mobility Parking' space NOT be approved outside 35 England Avenue, Marrickville, as the applicant's property has an off-street parking facility and the applicant's condition does not necessitate the use of a wheelchair for mobility.

**Traffic Committee Recommendation:**

**THAT** the Officer's recommendation be adopted.

**For Motion:** Unanimous

<b>Item No:</b>	<b>C1.6</b>
<b>Subject:</b>	<b>ALICE STREET, NEWTOWN (NORTH WARD) REQUEST FOR MOBILITY PARKING SPACE OUTSIDE PROPERTY No. 125</b>
<b>File Ref:</b>	<b>S0150-02</b>
<b>Author:</b>	<b>Jenny Li – Traffic Officer</b>

### **Synopsis**

A request has been received from a resident of Alice Street, Newtown for the provision of a dedicated mobility parking space outside their residence. It is recommended that a 'Mobility Parking' space be approved as the applicant's property does not have an off-street parking facility and the applicant's condition necessitates the use of a wheelchair for mobility.

### **Traffic Committee Discussion**

The Committee members agreed with the Officer's recommendation.

### **Officer's Recommendation:**

**THAT** a dedicated 'Mobility Parking' space be approved on the northern side of Alice Street, Newtown, outside of property No. 125, subject to:

- The operation of the dedicated parking space be valid for twelve (12) months from the date of installation;
- The applicant advising Council of any changes in circumstances affecting the need for the special parking space; and
- The applicant be requested to furnish a medical certificate and current mobility permit justifying the need for the mobility parking space for its continuation after each 12 month period.

### **Traffic Committee Recommendation:**

**THAT** the Officer's recommendation be adopted.

**For Motion:** Unanimous

<b>Item No:</b>	<b>C2</b>
<b>Subject:</b>	<b>ALBERT STREET, PETERSHAM (CENTRAL WARD) PROPOSED STATUTORY 'NO STOPPING' RESTRICTIONS</b>
<b>File Ref:</b>	<b>S0070-02</b>
<b>Author:</b>	<b>Ramy Selim – Traffic Officer</b>

### **Synopsis**

A request has been received from a resident of Albert Street, Petersham, for the installation of 'No Parking' signs on both sides of the street at its intersection with Stanmore Road, to control illegal parking and double parking. It is recommended that the installation of the statutory 'No Stopping' restrictions on both sides of Albert Street for a distance of 10 metres from its intersection with Stanmore Road, be approved, to deter illegal parking and increase safety at this location.

### **Traffic Committee Discussion**

The Committee members agreed with the Officer's recommendation.

### **Officer's Recommendation:**

**THAT** the installation of the statutory 'No Stopping' restrictions on both sides of Albert Street for a distance of 10 metres from its intersection with Stanmore Road, Petersham be APPROVED, to deter illegal parking and increase safety at this location.

### **Traffic Committee Recommendation:**

**THAT** the Officer's recommendation be adopted.

**For Motion:** Unanimous

<b>Item No:</b>	<b>C3</b>
<b>Subject:</b>	<b>BEDFORD STREET, NEWTOWN (NORTH WARD) PROPOSED STATUTORY 'NO STOPPING' RESTRICTIONS</b>
<b>File Ref:</b>	<b>S0420-02</b>
<b>Author:</b>	<b>Ramy Selim - Traffic Officer</b>

### **Synopsis**

A request has been received from Council's Team Leader, Ranger Services for the installation of 'No Stopping' signs on Bedford Street, Newtown at its junctions with a number of streets, to deter illegal parking and increase safety.

It is recommended that the statutory 'No Stopping' restrictions be installed on the northern side of Bedford Street for a distance of 10 metres from its intersections with Station Street, Chelmsford Street and Probert Street, Newtown, to deter illegal parking and improve sight lines at these locations.

### **Traffic Committee Discussion**

The Committee members agreed with the Officer's recommendation.

### **Officer's Recommendation:**

**THAT** the statutory 'No Stopping' restrictions be installed on the northern side of Bedford Street for a distance of 10 metres from its intersections with Station Street, Chelmsford Street and Probert Street, Newtown, to deter illegal parking and improve sight lines for turning motorists at these locations.

### **Traffic Committee Recommendation:**

**THAT** the Officer's recommendation be adopted.

**For Motion:** Unanimous



<b>Item No:</b>	<b>C4</b>
<b>Subject:</b>	<b>THOMAS STREET, LEWISHAM (CENTRAL WARD) REQUEST FOR RESIDENT PARKING RESTRICTIONS – RESIDENT SURVEY RESULTS</b>
<b>File Ref:</b>	<b>S4800-02</b>
<b>Author:</b>	<b>Ramy Selim –Traffic Officer</b>

### **Synopsis**

Following a petition received from residents of Thomas Street, Lewisham for the provision of Resident Parking Scheme on the western side of their street, a resident questionnaire survey was undertaken to obtain the opinion of residents and the results of the survey are presented in this report for the Committee to consider.

The resident consultation period was not completed at the time of printing this report and the results of the survey will be tabled at the Committee meeting for consideration.

### **Traffic Committee Discussion**

The Committee members were advised that only two survey forms were returned by residents at the conclusion of the consultation period. Council Officers advised that there is a delay in receiving the completed survey forms and suggested that this item be deferred for further consideration of the survey results.

Committee members agreed to defer its recommendations until further consideration of the results of the community consultation is undertaken by Council Officers.

### **Officer's Recommendation:**

To be determined at the Committee meeting, following the consideration of the results of the resident consultation.

### **Traffic Committee Recommendation:**

**THAT** the matter be DEFERRED until further consideration of the results of the community consultation is undertaken by Council Officers.

**For Motion:** Unanimous

<b>Item No:</b>	<b>C5</b>
<b>Subject:</b>	<b>RENWICK STREET, MARRICKVILLE (SOUTH WARD) REQUEST FOR 'NO STOPPING' RESTRICTIONS</b>
<b>File Ref:</b>	<b>S3970-02</b>
<b>Author:</b>	<b>Jenny Li – Traffic Officer</b>

### **Synopsis**

A request has been received from a business owner on Renwick Street, Marrickville for the provision of 'No Stopping' signs at the eastern end of Renwick Street (i.e. cul-de-sac end), as vehicles are being parked across driveways and affecting a business. It is recommended that the installation of 'No Stopping' restrictions around the cul-de-sac be approved, to deter illegal parking and improve access to off-street loading and parking facilities.

### **Traffic Committee Discussion**

The Committee members agreed with the Officer's recommendation.

### **Officer's Recommendation:**

**THAT;**

1. The installation of 'No Stopping' restrictions at the cul-de-sac end of Renwick Street, Marrickville be APPROVED, to deter illegal parking and improve access to loading and parking facilities. The proposed 'No Stopping' restrictions are to commence at 1 metre east of the driveway of Silver Smash and Mechanical Repairs on northern side of Renwick Street and extend across the driveway of property No. 154 on the southern side); and
2. "90° angle parking – Rear to kerb – Vehicles under 6m only – Park in bays only" signage be APPROVED for the indented car parking spaces within the cul-de-sac in Renwick Street, Marrickville.

### **Traffic Committee Recommendation:**

**THAT** the Officer's recommendation be adopted.

**For Motion:** Unanimous

<b>Item No:</b>	<b>C6</b>
<b>Subject:</b>	<b>BRIGHTON STREET, PETERSHAM (NORTH WARD) PROPOSED STATUTORY 'NO STOPPING' RESTRICTIONS</b>
<b>File Ref:</b>	<b>S0590-01</b>
<b>Author:</b>	<b>Ramy Selim – Traffic Officer</b>

### **Synopsis**

A request has been received from a resident of Station Street, Petersham, regarding illegal parking in Brighton Street at its junctions with Station Street and The Avenue. It is recommended that the installation of the statutory 'No Stopping' restrictions on Brighton Street for a distance of 10 metres from its intersections with Station Street and The Avenue be approved to deter illegal parking and increase safety at these locations.

### Traffic Committee Discussion

The Committee members agreed with the Officer's recommendation.

### Officer's Recommendation:

**THAT** the installation of the statutory 'No Stopping' restrictions on Brighton Street for a distance of 10 metres from its intersections with Station Street and The Avenue be APPROVED to deter illegal parking and increase safety at these locations.

### Traffic Committee Recommendation:

**THAT** the Officer's recommendation be adopted.

**For Motion:** Unanimous

## 6. LATE ITEMS

<b>Item No:</b>	<b>C7</b>
<b>Subject:</b>	<b>NORWOOD LANE, MARRICKVILLE (CENTRAL WARD) ROAD SAFETY CONCERNS</b>
<b>File Ref:</b>	<b>6494-05</b>
<b>Author:</b>	<b>Jenny Adams – Road Safety officer</b>

### Synopsis

Council investigated a proposal to change the current parking arrangements for Norwood Lane, Marrickville, to 'No Stopping 8.00-9.30AM 2.30-4.00PM School Days ONLY' on the southern side of the laneway in order to improve traffic flow and pedestrian safety associated with Wilkins Public School during the peak morning and afternoon school drop-off and pick-up periods.

A questionnaire survey was undertaken and given the majority support from residents surveyed it is recommended that 'No Stopping 8.00-9.30AM 2.30-4.00PM School Days ONLY' restrictions be installed on the southern side of Norwood Lane, Marrickville, to improve traffic flow and pedestrian safety.

### Traffic Committee Discussion

The Committee members agreed with the Officer's recommendation.

### Officer's Recommendation:

**THAT:**

The installation of 'No Stopping 8.00-9.30AM 2.30-4.00PM School Days ONLY' restrictions on the southern side of Norwood Lane, Marrickville, be APPROVED, in order to improve traffic flow and pedestrian safety associated with Wilkins Public School during the peak morning and afternoon school drop-off and pick-up periods.

## Item 2

**Traffic Committee Recommendation:**

THAT the Officer's recommendation be adopted.

For Motion: Unanimous

**7. GENERAL BUSINESS**

Nil

**8. THE MEETING CLOSED AT 2.00 PM**

## Attachment 1

**THIS ATTACHMENT IS BEING DISTRIBUTED  
AS A SEPARATE DOCUMENT**

C1211(1) Item 2

Agenda Pedestrian, Cyclist and Traffic Calming  
Advisory Committee 15 November 2011  
(circulated as separate document)



**Report No:** C1211(1) Item 3

**Subject:** BOARDING HOUSES AND HOMELESSNESS IN MARRICKVILLE  
ROUNDTABLE

**File Ref:** 3905/64758.11

**Prepared By:** Dina Petrakis - Coordinator, Community Partnerships & Places

### SYNOPSIS

Council is advised that following Council's endorsement of the *Boarding Houses and Homelessness in Marrickville Report* at the Council Meeting held on 11 October 2011 (Report Number C1011 Item 2), Community Development staff convened a formal meeting of key stakeholders. The stakeholder meeting took place on 27 October 2011 to scope next steps in developing an alternative boarding house management model. Based on the findings outlined in the *Draft Boarding Houses and Homelessness in Marrickville Report*, the purpose of the meeting was to develop a research brief in which the key stakeholders will be willing to participate.

### RECOMMENDATION

#### THAT:

1. the report be received and noted;
2. Council support the Boarding House Network's initiatives within current resources;
3. Council and partners advocate for occupancy agreements and enforceable minimum standards for boarding houses; and
4. Council make representations requesting the State Government legislate for the compulsory registration and licensing of boarding houses and that full funding be made available to local government to undertake this function.

### BACKGROUND

At the Services Committee Meeting of 9 August 2011 (S0811 Item 1), Council resolved that:

1. the report and *Draft Boarding Houses and Homelessness in Marrickville Report* be received and noted;
2. Council endorse the proposal to publicly exhibit the *Draft Boarding Houses and Homelessness in Marrickville Report* during August – September 2011, and receive a subsequent report back to Council in September 2011 following the public exhibit;
3. Council endorse the submission of the final version of the *Draft Boarding Houses and Homelessness in Marrickville Report* to the Coastal Sydney Homelessness Action Group for information only; and
4. Council endorse Community Development staff to convene a formal meeting of key stakeholders in September – October 2011 to scope next steps in developing an alternative boarding house model, following the findings outlined in the *Draft Boarding Houses and Homelessness in Marrickville Report*, for the purpose of developing a research brief in which the key stakeholders will be willing to participate.

All points listed above were endorsed by Council.

Further, at the Council Meeting of 11 October 2011 (C1011 Item 2), Council resolved:

THAT Council make representations regarding Boarding Houses requesting that the State Government:

1. Legislate to give tenancy rights to boarding house residents; and
2. Resource mechanisms by which rentals in new boarding house developments and the upgrading of existing boarding houses are kept at affordable levels.

## DISCUSSION

The minutes of the roundtable meeting on unlicensed boarding houses in Marrickville are provided at Attachment 1.

A roundtable of 15 key stakeholders was held on 27 October 2011 to discuss the way forward for unlicensed boarding houses in the LGA following the *Boarding Houses and Homelessness in Marrickville Report*. Representatives from Marrickville Council departments, key community organisations, government agencies, church and volunteer groups attended. Models of management, collaboration and partnerships were discussed at the roundtable. Outcomes of the meeting included:

- that Council and partners continue to advocate for occupancy agreements and enforceable minimum standards;
- that the roundtable be extended to include a regular forum with Newtown Neighbourhood Centre and the Baptist Community Services organising the next network meeting in February 2012;
- the creation of better referral pathways for boarding house clients, owners and managers;
- data sharing between agencies and service providers;
- training for interested boarding house owners and managers; and
- outreach programs and forums for boarding house owners and managers.

## CONCLUSION

In line with recommendations endorsed by Council following the *Boarding Houses and Homelessness in Marrickville Report*, Community Development staff successfully convened a formal roundtable meeting of key stakeholders to discuss the way forward for unlicensed boarding houses in Marrickville. A network of key service providers who connected at the roundtable will meet in February 2012, to discuss how to further the outcomes of the roundtable, including advocacy for occupancy agreements and enforceable minimum standards; referral pathways for boarding house residents, owners and managers; data sharing; and training and outreach programs for interested boarding house owners and managers.

## FINANCIAL IMPLICATIONS

Nil.

**OTHER STAFF COMMENTS**

Not applicable

**PUBLIC CONSULTATION**

No applicable

**RECOMMENDATION****THAT:**

1. the report be received and noted;
2. Council support the Boarding House Network's initiatives within current resources;
3. Council and partners advocate for occupancy agreements and enforceable minimum standards for boarding houses; and
4. Council make representations requesting the State Government legislate for the compulsory registration and licensing of boarding houses and that full funding be made available to local government to undertake this function.

Simone Schwarz  
Director, Community Services

**ATTACHMENTS**

1. Minutes of Meeting 27 October 2011 RK Consulting Simone Parsons

Roundtable on unlicensed boarding houses in Marrickville LGA - 27 October 2011

<b>FACILITATOR:</b> Simone Parsons, RK Consulting <b>MINUTE TAKERS:</b> Simone Parsons, RK Consulting and Katrina Moriarty, Marrickville Council	
<b>ATTENDEES:</b> <b>Simone Schwarz</b> (Director, Community Services, Marrickville Council); <b>Dina Petrakis</b> (Acting Manager, Community Development, Marrickville Council); <b>Robyn Moore</b> (Co-ordinator Social Planning and Policy, Community Development, Marrickville Council); <b>Katrina Moriarty</b> (Freelance researcher and writer, Community Development, Marrickville Council); <b>Rebecca Lockart</b> (Town Planner – Monitoring Services, Strategic Planner – Planning Services, Marrickville Council); <b>Lisa Burns</b> (Executive Officer, Newtown Neighbourhood Centre); <b>Paul Adabie</b> (Manager, Boarding House Outreach Project, Newtown Neighbourhood Centre); <b>Joel De Freitas</b> (Boarding House Outreach Project, Newtown Neighbourhood Centre); <b>Phoenix Van Dyke</b> (Inner Sydney Tenants' Advice and Advocacy Service); <b>Constable Kerry Baker</b> (Marrickville Local Area Command); <b>Gerry Smith and Chris Ishikuza</b> (Marrickville Mental Health Team); <b>Sandra Crocombe, Jonathon Harverson and Paul Kelly</b> (Volunteers, St Vincent de Paul Conference, Marrickville); <b>Elizabeth De Freitas</b> (Tenants' Union of NSW); <b>Chris Green</b> Caseworker, Sustainable Living Program, Central Sydney Community Care, ANGLICARE, Diocese of Sydney; <b>Bernard Cronin</b> (Group Manager, Accommodation and Community Development, Life Care Services, Baptist Community Services NSW & ACT); <b>Ross Coleman</b> (Group Manager, Community Development, Baptist Community Services NSW & ACT); <b>Laurie Besant</b> (Manager, Baptist Community Services Crystal Street Community Shop); <b>Ivy Yen</b> (Acting Team Leader, Care Connect); <b>Brenda Bailey</b> (Senior Policy Officer, NCOSS, and Member, Women In Prison Advocacy Network); <b>Julia Murray</b> (Inner West Tenants' Service, Marrickville Legal Centre); <b>Julie Harrison</b> (Manager, Metro Community Housing Cooperative).	
Agenda Item	Discussion Points
1. Welcome and introductions	<b>Simone Schwarz (Director, Community Services, Marrickville Council)</b> welcomed everyone, and facilitated introductions.
2. Background to the meeting	<p><b>Simone Parsons (Facilitator, RK Consulting)</b> identified the two main aims of the meeting: 1) extending conversations about unlicensed boarding houses in Marrickville LGA, and 2) connecting partners in the community who share common goals of unlicensed boarding house reform and shifting how unlicensed boarding houses are managed.</p> <p>Marrickville Council's research presented in the report <i>Boarding houses and homelessness in Marrickville</i>, has proposed two outcomes: the need for establishing a network in the Marrickville LGA, and the development of an alternative model for boarding house management.</p> <p>Council identifies this roundtable as an opportunity to establish working partnerships, as there is potential for multiple levels of response at both state government and local government levels. The meeting acknowledged that local government resources and impact on State Government reform are limited.</p>
3. Overview of legislative reform for boarding houses in	<p><b>Lisa Burns (Executive Officer – Newtown Neighbourhood Centre)</b> provided an overview of the unlicensed boarding house sector and current reforms in NSW.</p> <p>Licensed boarding houses in NSW are covered by the Youth and Community Services Act 1973. Currently, there is no legislation covering unlicensed boarding houses – all tenancy laws in NSW exclude unlicensed boarding house residents. There is no consistency of local government laws and regulations across the state.</p>

NSW	<p>Over the last decade, there has been a decline in the numbers of unlicensed boarding houses in NSW. There is also rapidly diminishing affordable real estate stock and a resulting lack of affordable and appropriate housing overall.</p> <p>Current legislation highlights fundamental flaws in the existing requirements for unlicensed boarding houses. Legislative reform can potentially affect safety, security and welfare of vulnerable residents. The safety, security and welfare of some of our most vulnerable people should not be dependent on the good will of owners and managers. This needs to be guaranteed through a strong legislative and monitoring framework. Good practices need to be recognised and enforced.</p> <p>The issue of unlicensed boarding house reform was tabled at NSW Parliament on 15 June 2011 by Clover Moore (Member for Sydney), and Anthony Roberts' (Minister, Fair Trading) response was tabled. Lisa referred to the following excerpt:</p> <p><i>An interdepartmental committee chaired by the Department of Family and Community Services has been examining issues relating to boarding houses from a whole-of-government perspective since 2008. One of the key issues being considered is how to better protect the rights of residents of boarding houses. A principles-based approach may be the most appropriate solution to providing greater security and protection to residents while at the same time ensuring that the viability of boarding house operators is not further diminished. Again, these issues are being considered by the interdepartmental committee as part of a whole-of-government approach to potential reform. Matters relating to social and affordable housing, planning issues, the role of local government and disability service standards make this an extremely complex issue.</i></p> <p><a href="http://www.parliament.nsw.gov.au/prod/parlament/hansart.nsf/V3Key/LA20110615021">http://www.parliament.nsw.gov.au/prod/parlament/hansart.nsf/V3Key/LA20110615021</a></p> <p>The report from the Social Policy Committee of the NSW Legislative Assembly is imminent. There is also a previous report on international student accommodation and housing.</p> <p>Redfern Legal Centre has created a Boarders and Lodgers Legal Information Kit which is useful for residents of unlicensed boarding houses.</p> <p><a href="http://www.rlc.org.au/admin/spaw2/uploads/files/RLCboarders.pdf">http://www.rlc.org.au/admin/spaw2/uploads/files/RLCboarders.pdf</a></p> <p>Clover Moore (Member for Sydney) has introduced the Residential Tenancies Bill 2010 to NSW Parliament, which includes unlicensed boarding house tenancy rights reforms.</p> <p>The NSW Tenants' Union is sustaining a marginal renters' legal rights campaign <a href="http://www.tenants.org.au/publish/marginal-renters/index.php">http://www.tenants.org.au/publish/marginal-renters/index.php</a>.</p>
4. Update on Boarding House Outreach Project	<p><b>Paul Adabie, Manager - Boarding House Outreach Project (BHOP), Newtown Neighbourhood Centre</b></p> <p><a href="http://www.newtowncentre.org/bhop.html">http://www.newtowncentre.org/bhop.html</a></p> <p>Marrickville is known as 'boarding house central' to other Councils and workers in the community sector.</p> <p>Although the unlicensed boarding house sector is troubled, it does provide essential housing in the social housing system, as unlicensed boarding houses "fill the gap" and provide accommodation for people who cannot access housing in other sectors.</p> <p>It is a marginal sector, and residents are often from marginal social groups.</p> <p>Some boarding house owners take advantage of residents' vulnerability. People are living in rooms with no windows, in poor conditions, and in houses where there is often criminal behaviour.</p>



	<p>Real estate property managers have begun to ask Newtown Neighbourhood Centre to stop referring clients to them, as some unlicensed boarding houses are being gentrified.</p> <p>Newtown Neighbourhood Centre's Boarding House Outreach Project (BHOP) works across Ashfield, Burwood, City of Sydney, Canterbury, Leichhardt and Marrickville LGAs.</p> <p>BHOP caseworkers identify that boarding house residents are on average between 46 – 55 years old. Women are a hidden population in boarding houses, and a lot of boarding houses exclude women as violence and risk make these environments unsuitable for women.</p> <p>Other issues effecting residents include drug and alcohol issues, legal problems, family breakdown, health issues.</p> <p><b>Joel De Freitas (Boarding House Outreach Project, Newtown Neighbourhood Centre)</b> described examples of boarding house residents' experiences.</p> <p>An 85 year old man was successfully moved into social housing with the assistance of BHOP. The boarding house he had called home for many years had changed drastically over time, and he found himself in an environment of drug abuse and violence. He made complaints to the owner, who referred these problems to the caretaker, who victimised the man and convinced him that he had no option but to stay in this terrible environment. Two years later, the man is living in a ground floor flat with a garden, and happily shows his new home to people who need encouragement to take the leap, and ask for help.</p> <p>Joel explained that most of his work is re-housing, and relocating people into more suitable accommodation, including Department of Housing accommodation.</p> <p>BHOP also focuses on engagement with owners and operators, and have held forums in the past, where only six or seven people turn up.</p> <p>Owners often own multiple houses. There is often conflict between owners and caretakers, who sometimes face similar problems to residents.</p> <p>BHOP is finding that with 'new generation boarding houses'</p> <p><a href="http://www.housing.nsw.gov.au/Centre+For+Affordable+Housing/Developing+Affordable+Housing/Affordable+Rental+Housing+SEPP/Boarding+Houses.htm">http://www.housing.nsw.gov.au/Centre+For+Affordable+Housing/Developing+Affordable+Housing/Affordable+Rental+Housing+SEPP/Boarding+Houses.htm</a>, owners are approaching the Newtown Neighbourhood Centre for endorsement and also assistance with improving conditions.</p> <p>BHOP advocates using financial incentives to engage owners in dialogue, with the aim of improving conditions.</p> <p>A focus on what can be done locally is essential, and the connections between State legislation, Local Government standards and legal environments need to be understood.</p>
5. Overview of Marrickville Council's systems	<p><b>Simone Schwarz (Director, Community Services, Marrickville Council)</b> explained local government registration of unlicensed boarding houses in Marrickville. Marrickville Council has a list of unlicensed boarding houses, which does not correspond to the number of unlicensed boarding houses community service providers estimate are operating in the Marrickville LGA. Unlicensed boarding houses used to be registered with Councils, but the legislative requirement was removed.</p> <p>The cost of registration and monitoring of unlicensed boarding houses currently not known to Council is not tenable. The State Government needs to take legal and financial responsibility for local enforcement.</p>

**Dina Petrakis (Acting Manager, Community Development, Marrickville Council)** explained that Marrickville Council's report on boarding houses in the LGA came out of research conducted for Council's Affordable Housing Strategy. Further research into boarding houses was conducted, and the report was tabled at Council in August 2011.

Feedback received by Council during the public exhibition period consistently described the ongoing need for advocacy and also questioned Council's current role in boarding house reform.

When Council receives Development Applications for 'new generation boarding houses', a category of affordable housing, the first question asked in the assessment process is "who is this housing for?". It is common for 'new generation boarding houses' to be marketed as studio apartments, and tenancy is often inner city workers and students. This is not affordable housing for traditional residents of unlicensed boarding houses in the Marrickville LGA. Council has no control over the rents charged for 'new generation boarding houses'. Owners of 'new generation boarding houses' have access to financial concessions, and are charged residential rates in Marrickville LGA.

Answering the feedback question, "Why doesn't Council close the boarding houses down?", Dina explained the following points:

- Monitoring is a regulated and highly controlled process. Council does has the right to inspect boarding houses for fire safety compliance. Unlicensed boarding houses with 12 residents or under are required to be fitted with domestic smoke alarms. Unlicensed boarding houses with over 12 residents are required to comply with industrial fire safety standards.
- There are no regulations for Council to monitor any OH&S or people living in unlicensed boarding houses.
- Council only monitors unlicensed boarding houses which are known to be operating. This information is gathered through Development Application processes and complaints.

**Rebecca Lockart (Town Planner – Monitoring Services, Strategic Planner – Planning Services, Marrickville Council)** explained that Council's Planning Services deal with unlicensed boarding houses in cases of prohibited use of buildings. Council's response to these businesses is a planning response to zoning and /or building work. During the annual fire safety checks carried out by Monitoring Services, officers can refer building or zoning infringements to Planning Services for investigation.

**Dina Petrakis (Acting Manager, Community Development, Marrickville Council)** explained that even when Monitoring Services take action and request compliance with fire safety standards, many unlicensed boarding house owners resist even legal action. Monitoring Services officers have stated that over the last two years there has been a marked improvement in boarding house conditions. (There was a general discussion about reasons for this, with some people suggesting that it is an effect of gentrification and the potential to attract tenants who are able to pay more rent.)

The combined effect of the Council's monitoring and compliance process and the court process is slow, and some owners use these systems to baulk at making essential and mandated changes.

Council does not have the resources or the recourse to change this issue.

**Bernard Cronin (Group Manager, Accommodation and Community Development, Life Care Services, Baptist Community Services NSW & ACT)** explained that advocates, NGOs and Local Government are all working on the fringes as well, and that perpetually working for change without

legal reform at a State level means limited impact and changes. His question to the group was, “How can we progress as a group to make legislative change happen?”

**Lisa Burns (Executive Officer, Newtown Neighbourhood Centre)** responded that the group should connect with peak bodies including Shelter, Homelessness NSW and NCOSS, legal centres, and the Tenants’ Union who are already lobbying and campaigning for legal reform and protection. She said that while improvements are made and there is better advocacy for conditions in boarding houses, there is a corresponding change in boarding house residents, and gentrification occurs. Currently some local real estate agents are refusing traditional clientele of boarding houses.

**Brenda Bailey (Senior Policy Officer, NCOSS and Member, Women In Prison Advocacy Network)** questioned the impact of zoning on boarding houses.

**Dina Petrakis (Acting Manager, Community Development, Marrickville Council)** explained that under Council’s new Local Environment Plan, developers are now able to apply for development approval for boarding houses in all zones of the LGA, as a commitment to affordable housing.

**Simone Schwarz (Director, Community Services, Marrickville Council)** explained that the reason for opening up all zones to boarding house development is an attempt to disperse clusters of boarding houses in the LGA, which is consistent with a new housing philosophy of mixed zone use and mixed tenancies. At the Council meeting during which the *Boarding houses and Homelessness in Marrickville* Report was tabled, there was a motion to lobby the State Government to legislate for mandatory registration and monitoring of unlicensed boarding houses. This was voted down, in part due to a fear of loss of this form of housing and subsequent waves of displacement and primary homelessness due to this change. Council has sent a letter to State Government, informing The [Hon. Greg Pearce, MLC](#) Minister for Finance and Services and [The Hon. Pru Goward, MP](#) Minister for Family and Community Services (who share the responsibility of housing in NSW, as there is no discrete housing portfolio) of the following resolution:

*At the Council Meeting of 11 October 2011 (C1011 Item 2) Council resolved that*

*THAT Council make representations regarding Boarding Houses requesting that the State Government:*

- 1. legislate to give tenancy rights to boarding house residents; and*
- 2. resource mechanisms by which rentals in new boarding house developments and the upgrading of existing boarding houses are kept at affordable levels.*

Council wants to bring issues out into the open, work within legislation and support residents. In order to facilitate this, Council has established a newly created Social Planner position within Planning Services, and a major focus of the role is Social Impact Assessments.

**Lisa Burns (Executive Officer, Newtown Neighbourhood Centre)** suggested coordinating a process to use Development Application for data collection and monitoring. Rebecca Lockhart explained that all Development Applications received by Council are advertised and on public exhibition, so the information is easily accessible.

It was agreed that an alternative management model and a legal reform campaign focussed on co-ordinated lobbying should be the focus of the network. **Simone Schwarz (Director, Community Services, Marrickville Council)** committed to being part of the campaign, dependant on Council

approval.

**Brenda Bailey (Senior Policy Officer, NCOSS and Member, Women In Prison Advocacy Network)** suggested looking at the impact of reform on boarding house productivity. Elizabeth De Freitas responded that Housing NSW has a boarding house calculator <http://www.housing.nsw.gov.au/Centre+For+Affordable+Housing/Boarding+House+Financial+Assistance+Program/Funding+for+New+Projects/> to test the viability of a boarding house development.

**Lisa Burns (Executive Officer, Newtown Neighbourhood Centre)** explained that data collection needs to be co-ordinated and that more statistics are required to back up anecdotal evidence.

**Laurie Besant (Manager, Baptist Community Services Crystal Street Community Shop)** said that boarding house residents tend to be invisible, and therefore proof of their circumstances is needed to successfully target services.

A general discussion followed about residents at-risk of suicide and self-harm included caseworkers' stories of people they had successfully assisted recently, and also the detrimental effect of the closure of local services such as 'Our Place', and the subsequent pressure on existing services.

**Dina Petrakis (Acting Manager, Community Development, Marrickville Council)** said that Tom Foster Community Centre's Meals on Wheels service delivers 30% of the total meals to boarding house residents, and have now established a home visit program to ensure that elderly residents eat daily. Younger residents cannot afford Meals on Wheels.

**Dina Petrakis (Acting Manager, Community Development, Marrickville Council)** then summarised Council's systems and current position. Feedback on the *Boarding Houses and Homelessness in Marrickville Report* included questions about why Council only provides planning information to boarding house developers after receiving Development Applications. In response to this issue, Planning Services, specifically the new Social Planner, will look at processes and work with developers to provide free information and guidance.

**Rebecca Lockart (Town Planner – Monitoring Services, Strategic Planner – Planning Services, Marrickville Council)** explained that pre-application meetings are currently available. There are also two new lodgement officer positions, which will focus on Development Applications only.

**Brenda Bailey (Senior Policy Officer, NCOSS and Member, Women In Prison Advocacy Network)** explained that the NSW Department of Housing provide private rental subsidies, and that a similar system could be established to offset improved boarding house accommodation.

**Jonathon Harverson (Volunteer, St Vincent de Paul Conference, Marrickville)** suggested using the media to create pressure to reform.

**Simone Schwarz (Director, Community Services, Marrickville Council)** suggested using an agency like St Vincent de Paul to get a media response.

#### Summary of discussion

State Government legislation and funding can ensure registration and monitoring of boarding house operations.

Local governments can implement planning controls, continue monitoring and planning services, provide campaign leadership, work with community partners, identify loop holes in Development Applications, and working with boarding house developers.

	<p>Social support services (NGOs, church agencies, volunteers, government agencies and community centres) provide case management; emergency relief; referrals; liaison with health / housing / disability / youth / aged services; liaison with real estate agents, owners and managers; transition to alternative housing and aged care; mental health services including suicide prevention; food services; outreach and home visits.</p> <p>Boarding house management structures can potentially improve circumstances for owners, managers and residents. Residential agreements and good practices are already in place in some houses and real estate agencies and need to be acknowledged. Financial viability of improved management structures could potentially be more accessible if boarding houses are managed by NFP social housing providers.</p> <p>Currently, the Residential Tenancy Tribunal can decide whether boarding house residents can be considered tenants – the decision rests primarily on ‘exclusive possession’.</p> <p>The Tenants’ Union is lobbying for an Occupancy Agreement based on the ACT model and viable housing standards. This is supported by providers of services and housing to marginal renters, including Wesley Mission.</p>
6. Scoping an alternative management model for boarding houses	<p>A general discussion about the issues experienced with boarding house control in the ACT began. ACT legislation requires use of occupancy agreements, but this is not backed up by legislation requiring minimum standards of boarding house conditions. Clover Moore (Member for Sydney) has introduced a Bill to NSW Parliament based on the ACT model. It was suggested that NSW learn from the experiences in the ACT, and push for more legislative protection and the establishment of rigorous minimum standards for boarding houses.</p> <p><u>Summary of discussion</u></p> <p><b>Essential elements</b> = occupancy agreement with enforceable minimum standards + lockable, single occupancy room (unless couple) with own bathroom</p> <p><b>Aim</b> = Residents of boarding houses to be covered under the Residential Tenancy Act</p> <p>There is the potential to use good quality student accommodation as a basic design standard for boarding houses, including the minimum conditions of a private lockable room with private bathroom, communal cooking facilities, communal living and garden areas.</p> <p>The potential for social housing providers to manage privately owned boarding houses is already successful in other parts of the city, and other states.</p> <p><b>Julie Harrison (Manager, Metro Community Housing Cooperative)</b> explained that Metro Housing had been approached many times by boarding house owners who the minimum standards for social housing management include minimum floor space for communal areas, private bedrooms and bathrooms, tenancy agreements, rent setting, financial viability for social housing provider including a management fee and contract.</p> <p>It was discussed if a ‘fit and proper person’ test for caretakers – similar to Working with Children check – could be used to ensure that people who manage boarding houses are screened.</p> <p>Successful working models operating in Victoria include standard features of lockable bedrooms, sunlight exposure, minimum floor spaces, covered outdoor areas, service coordination and support.</p>



	<p>A discussion about offering incentives (including tax incentives) for owners to provide minimum standards, backed up by legal protection for residents, followed, focussing on the idea that financial incentives be linked to accountability. There is also the possibility of blacklisting bad providers and owners, and creating a list of preferred providers.</p> <p>Key organisational feature should be connecting business and community services – a good example of this is Grocon’s participation in the Common Ground development in Camperdown. Following this, there is the potential for a social impact study that proves profit beyond financial terms, including a cost-benefit analysis of providing support to residents, managers and owners in housing models.</p> <p>Creating referral pathways requires co-ordinated agency information sharing, data sharing, training for interested boarding house managers, circulation of Newtown Neighbourhood Centre resources, outreach programs and forums – sharing models, showcasing what already works.</p> <p>Services currently offered to residents of unlicensed boarding houses in the Marrickville LGA include: case management; management of transition to housing or aged care facilities emergency relief, referrals, liaison with health, housing, disability, ageing, youth services; mental health services; suicide prevention; food services; outreach including home visits; pastoral care.</p>
7. Focus for the Marrickville LGA	<p><b>Rebecca Lockart (Town Planner – Monitoring Services, Strategic Planner – Planning Services, Marrickville Council)</b> explained that Council’s closure process operates with strict timeframes. Council liaises with owner about potential relocation of residents. A general discussion about the need to connect with tenants when a BH is closed down followed.</p> <p><b>Lisa Burns (NNC)</b> suggested that Council should connect tenants with Newtown Neighbourhood Centre for case management and identifying opportunities for relocation. Council could liaise with residents directly about alternative accommodation and support services. Other service providers could support the process. Potentially, the network could look at ADHC closure protocol for potential models and ideas.</p> <p>A list of preferred providers could focus on circulating good news, not just complaints. There is also scope for including real estate agents and boarding house owners who follow best practice in Council’s Business Awards.</p> <p>A discussion about reporting known undeclared business activity to ATO followed.</p> <p>The network could also prioritise providing better referral pathways for caretakers and managers, who usually call the police to deal with residents’ issues.</p> <p>The NSW Government established an Affordable Housing Taskforce on 20 May 2011: <a href="http://www.planning.nsw.gov.au/LinkClick.aspx?fileticket=BQIlfkKWJM%3D&amp;tabid=313&amp;language=en-AU">http://www.planning.nsw.gov.au/LinkClick.aspx?fileticket=BQIlfkKWJM%3D&amp;tabid=313&amp;language=en-AU</a></p>
8. Next steps	<p><b>ACTIONS</b></p> <p><b>Lisa Burns (Executive Officer, Newtown Neighbourhood Centre)</b> will connect with <b>Baptist Community Services</b> to organise the next network meeting in February 2012.</p> <p>Network to discuss how to connect Newtown Neighbourhood Centre’s ‘one-stop shop’ with service providers who will meet the needs of the community, and who can provide resources, referrals, mentoring, support and provision of essential goods to boarding house residents, caretakers, managers and owners.</p>

	<p>Extension of the roundtable to create a regular forum and a network – sustainability of this aim is key, ensuring that goals are met and replication of networks and services already in existence is avoided – this needs to complement and support what already exists.</p> <p>Newtown Neighbourhood Centre to explore opening up the Newtown Agency Group to include more members and strategically represent and connect with service providers in the Marrickville LGA.</p> <p>Simone Schwarz will present meeting notes to Council as a report – everyone at the roundtable will be informed when the report will be tabled at the Council meeting, and are invited to listen and speak at the meeting.</p> <p>Network to explore how to create better referral pathways for service providers and also boarding house owners and managers – mapping existing services and sharing information.</p> <p>Network to explore how to improve data sharing.</p> <p>Training for interested boarding house owners and managers, encouraging participation with incentives of reducing neighbourhood complaints and better property maintenance.</p> <p>Outreach programs and forums specifically for boarding house caretakers and managers, with the goal of resourcing caretakers and managers to better take care of boarding houses and assist residents.</p>
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**Report No:** C1211(1) Item 4

**Subject:** COAG NATIONAL QUALITY AGENDA FOR EDUCATION AND CARE SERVICES

**File Ref:** 1987-01/63710.11

**Prepared By:** Lynne George - Manager, Children & Family Services

## SYNOPSIS

This report outlines the significant changes to be implemented in Council's children's services over a five to ten year period and seeks Council's endorsement of the Action Plan outlined in the report. This Plan aims to ensure compliance with the new national law, regulations, quality assurance and national learning frameworks being introduced as part of the COAG Early Childhood Education and Care Reform Agenda and National Quality Framework.

## RECOMMENDATION

### THAT Council:

1. **note the significant changes to be implemented in Council's education and care services during 2011 to 2016 as part of the COAG National Reform Agenda and implementation of the National Quality Framework; and**
2. **endorse the Action Plan as detailed in the report.**

## BACKGROUND

### COAG Early Childhood Education and Care Reform Agenda

In April 2007, the Council of Australian Governments (COAG) agreed to the development of a national approach to the quality assurance and regulation of early childhood services. In July 2009, COAG endorsed the first National Early Childhood Development Strategy – Investing in the Early Years. As part of this strategy, all Australian governments agreed for the first time to a shared vision for the early years, that **by 2020 all children have the best start in life to create a better future for themselves and for the nation**. This strategy establishes the framework for Australia's comprehensive response to evidence about the importance of early childhood development and the benefits and cost-effectiveness of ensuring all children experience a positive early childhood.

On 7 December 2009, COAG agreed to the introduction of the *National Quality Framework* (NQF) for early childhood education and care, recognising that there is a body of evidence that demonstrates '*a child's experience in their first five years sets the course for the rest of their lives*' and early childhood education and care impacts on a child's health, wellbeing and competence across their lifespan.

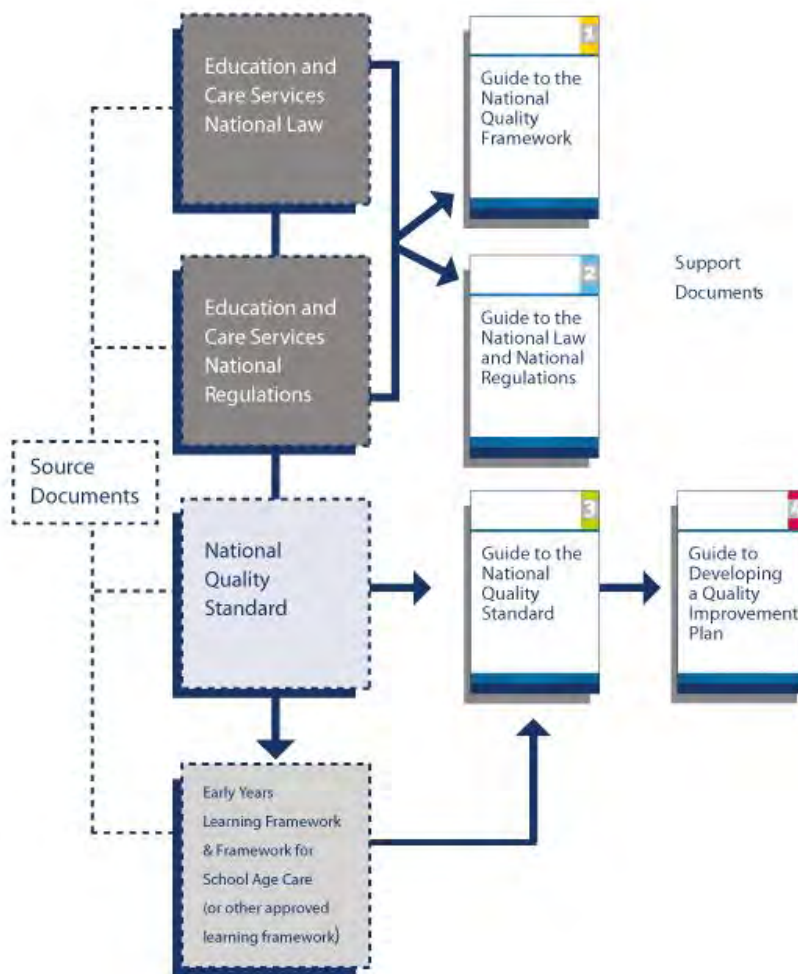
### The National Quality Framework

The NQF will be applied to long day care, preschools, family day care and outside school hours care services from 1 January 2012. It aims to increase quality and drive continuous improvement and consistency in early childhood education and care and school age care through:

- **a new national legislative framework** – the *Education and Care Services National Law* and *National Regulations* (replaces existing NSW licensing regulations)

- the **National Quality Standard** for Early Childhood Education and Care and School Age Care (replaces existing quality assurance/accreditation system)
- The National Quality Standard is linked to **approved national learning frameworks** that recognise that children learn from birth and guide Educators in developing quality programs that support children's learning – the *Early Years Learning Framework* for children from birth to five years and *My Time, Our Place* framework for School Age Care
- **a new national quality rating and assessment process**
- **a new national body called the Australian Children's Education and Care Quality Authority (ACECQA)**, replacing the National Childcare Accreditation Council (NCAC)
- **a Regulatory Authority in each state and territory** with primary responsibility for approval, monitoring and quality assessment of services - the Department of Education and Communities in NSW (replacing Community Services)

The National Quality Framework will take effect from 1 January 2012 with key requirements such as qualifications, educator to child ratios and staffing arrangements being phased in between 2012 and 2020. These changed requirements are discussed further under 'Discussion'.



### COAG Bilateral Agreement on Achieving Universal Access to Early Childhood Education

On 29 November 2008, COAG endorsed a new National Partnership Agreement on Early Childhood Education. Under the Agreement, the Commonwealth and State and Territory governments have committed to ensuring that all children will have access to a quality early childhood education program by 2013, delivered by a four-year university-trained early childhood teacher, for 15 hours a week, 40 weeks a year, in the year before formal schooling.

### **DISCUSSION**

The next 5 – 10 years will be a period of significant change for all education and care services in Australia. Although the new national law and regulations, and accreditation system (National Quality Standard) will be implemented from January 2012, the government regulatory authorities acknowledge that the details of some new requirements are still to be developed and the paperwork to support the new requirements has not yet been made available. The first assessment of services against the NQS will commence in mid-2012.

### National Quality Standard

The new National Quality Standard aims to promote:

- the safety, health and wellbeing of children
- a focus on achieving outcomes for children through high-quality educational programs
- families' understanding of what distinguishes a quality service.

There are seven (7) quality areas:

<b>QA1</b>	Educational program and practice
<b>QA2</b>	Children's health and safety
<b>QA3</b>	Physical environment
<b>QA4</b>	Staffing arrangements
<b>QA5</b>	Relationships with children
<b>QA6</b>	Collaborative partnerships with families and communities
<b>QA7</b>	Leadership and service management

### Ratings under the National Quality Standard

The National Regulations outline the five quality ratings that can be awarded to services assessed against the NQS, as follows:

- Excellent
- Exceeding National Quality Standard
- Meeting National Quality Standard
- Working Towards National Quality Standard
- Significant Improvement Required

The Assessment and Rating Instrument that will be used to award a quality rating has not yet been finalised.



### Implementation Action Plan

The Action Plan below details some of the actions required for Council's services to be compliant with the new law, regulations and NQS.

### **COUNCIL CFS ACTION PLAN FOR IMPLEMENTATION OF NQF, NQS AND UNIVERSAL ACCESS**

Change	Measure	Council Service/s Affected	Action Required	Due Date	Current Status
<b>Changes to Staff Ratios</b>	1:4 ratio for babies	Long Day Care	Implement new reduced ratio (was 1:5)	1/1/ 2011	Implemented from January 2011 at no cost to Council
	1:5 for 2-3s	Long Day Care Preschool	Implement new reduced ratio (currently 1:8)	1/1/2016	Action Plan being implemented: <ul style="list-style-type: none"> <li>• consultation with centres and staff;</li> <li>• review of number of 2-3 places;</li> <li>• review of group sizes;</li> <li>• financial modelling, including fees impact</li> <li>• report to Council 2013/14</li> </ul>
	FDC Educator ratios	Family Day Care	Each Educator to have maximum of 4 children not yet attending school (reduced from 5 children)	1/1/2014	<ul style="list-style-type: none"> <li>• Training of FDC Educators</li> <li>• Educators to undertake assessment of their ongoing economic viability</li> </ul>
<b>Approved National Learning Frameworks</b>	Early Years Learning Framework for 0-5s	Long Day Care Preschool	Current implementation	Current	<ul style="list-style-type: none"> <li>• Will be assessed as part of National Quality Standard</li> <li>• Joint action research projects undertaken with UTS and Macquarie University, Institute of Early Childhood</li> <li>• In place at all centres with current focus on appropriate documentation and assessment of children's learning</li> </ul>
	My Time, Our Place Framework for School Age Care	Outside School Hours Care Vacation Care	Current implementation	Adopted in August 2011	<ul style="list-style-type: none"> <li>• Staff training</li> <li>• Review of current practices against framework</li> <li>• Will be assessed as part of National Quality Standard</li> </ul>
<b>Changes to Qualifications</b>	Early Childhood Teachers	Services with 25 children or less (May Murray ELC)	Must have access to a teacher 20% of the time service is open	1/1/2014 (Previously 1/1/2012)	Implemented at May Murray ELC in 2011 at no cost to Council
	Certificate III	Long Day Care	All staff to have a	1/1/2014	<ul style="list-style-type: none"> <li>• Preliminary</li> </ul>

## Item 4

Change	Measure	Council Service/s Affected	Action Required	Due Date	Current Status
		Preschool	Certificate III (or be getting one)		<p>consultation held with unqualified staff</p> <ul style="list-style-type: none"> <li>Majority of current staff undertaking study or have qualification</li> <li>Job specifications to be reviewed and revised and evaluated under OO-Soft and budget impacts to be assessed, if any</li> <li>Training Plan being developed in consultation with Council Training Coordinator</li> <li>Strategy to be developed with People and Workforce regarding staff who do not intend to obtain Certificate III</li> </ul>
		Family Day Care	All Educators to have a minimum Certificate III or be getting one	1/1/2014	<ul style="list-style-type: none"> <li>Majority of Educators have obtained or are studying Certificate III or Diploma</li> <li>Strategy to be developed with FDC Educators who do not intend to gain Certificate III qualifications</li> </ul>
	Diploma	Long Day Care Preschool	50% of staff to have a Diploma or teaching degree (or getting one)	1/1/2014	<ul style="list-style-type: none"> <li>Meet this requirement currently across early childhood as a whole</li> <li>Review of staff structure at each centre to be undertaken, including staff consultation</li> <li>Training Plan being developed in consultation with Council Training Coordinator</li> <li>Report to Council in December 2012</li> </ul>
		Family Day Care	All Coordinators to have a Diploma (or degree) or be getting one	1/1/2014	Meet this requirement currently
<b>Accreditation</b>	Assessment against the	Long Day Care Outside School	Assessment against NQS	1/1/2012	<ul style="list-style-type: none"> <li>Ongoing staff training</li> <li>All centres/services</li> </ul>

Change	Measure	Council Service/s Affected	Action Required	Due Date	Current Status
	new <i>National Quality Standard</i> (NQS)	Hours care Vacation Care Family Day Care Preschool			currently undertaking self-assessment against the new National Quality Standard and completing a Quality Improvement Plan (QIP) by 30 April 2012 <ul style="list-style-type: none"> <li>Review and revision of all CFS policies and procedures to ensure compliance with new national law, regulations and NQS – currently underway</li> <li>Will be the first QIP ever completed by the preschool</li> <li>First assessments against NQS will occur from mid- 2012</li> </ul>
<b>Regulation</b>	New national regulatory system - <i>Education and Care Services National Law and National Regulations</i>	Long Day Care Preschool Family Day Care Outside School Hours Care, including Vacation Care	Compliance	1/1/2012	<ul style="list-style-type: none"> <li>National Law and Regulations still to be passed through parliament</li> <li>CFS review of all changed and new requirements currently underway</li> <li>Action Plan being developed in regard to new and revised areas requiring compliance</li> </ul>
<b>Approval to Operate</b>	Services need a Provider Approval and a Service Approval to operate	Long Day Care Preschool Family Day Care Outside School Hours Care Vacation Care	Services currently with licences will automatically be granted both approvals.  OSHC will be newly regulated, however details of requirements under national law and regulations still not specified	1/1/2012	<ul style="list-style-type: none"> <li>Further Information Sessions to be delivered by government in November in relation to new requirements for OSHC</li> <li>Further specifications to be provided in the law and regulations regarding OSHC staffing, qualifications, ratios, physical environment etc</li> </ul>
<b>Universal Access</b>	Universal access to preschool program for children in the year before school	Long Day Care Preschool	Preschool program offered by 4 year trained early childhood teachers for 15 hrs per week	30/6/2013	Council working with peak and other local government child care services to develop achievable implementation plan

**Item 4**

Clearly considerable consultation will need to be undertaken with staff, Council's Executive Management Team and People and Workforce Section, other children's services providers, and peak and state-wide agencies to ensure all new requirements are undertaken in an appropriate, effective and financially sustainable manner and that financial modelling takes into consideration the possible impacts on affordability of services for families.

Progress reports will be submitted to Council as outlined in the Action Plan to advise on the implementation of these changes and identify any financial, social, governance and/or environmental impacts of proposed options for change.

**CONCLUSION**

Considerable work will need to be undertaken to ensure that Council's education and care services comply with the new national requirements. The Action Plan detailed in this report provides a program and timetable for compliance to be achieved.

**FINANCIAL IMPLICATIONS**

Where compliance with new requirements results in financial impacts, then a report will be provided to Council detailing the financial modelling and financial impacts. Financial modelling will be undertaken in consultation with the Finance Section.

**OTHER STAFF COMMENTS**

Nil.

**PUBLIC CONSULTATION**

Consultation will be undertaken with staff and, where appropriate, the parent community in relation to all proposed changes.

**RECOMMENDATION**

**THAT Council:**

1. **note the significant changes to be implemented in Council's education and care services during 2011 to 2016 as part of the COAG National Reform Agenda and implementation of the National Quality Framework; and**
2. **endorse the Action Plan as detailed in the report.**

Simone Schwarz  
Director, Community Services

**ATTACHMENTS**

Nil.

**Report No:** C1211(1) Item 5

**Subject:** RESIDENT PETITION TO REMOVE AND REPLACE NORFOLK ISLAND HIBISCUS (*LAGUNARIA PATERSONIA*) STREET TREES IN HARROW RD, STANMORE

**File Ref:** S2270-03/64379.11

**Prepared By:** Phillip Jackson - Coordinator, Tree Management Services

## SYNOPSIS

This report addresses a resident petition for Council to remove and replace 24 Norfolk Island Hibiscus (*Lagunaria patersonia*) street trees in Harrow Rd Stanmore. There is a history of resident complaints regarding the subject trees dating back to 1999. The reported complaints include infestations of Cotton Harlequin Bug (*Tectoris diopthalmus*); Excessive flower litter production and the production of small 'glass-like' hairs from seed pods of the trees. These small hairs have reportedly caused skin irritations to resident's children and pets as well as continually becoming stuck in resident feet. It is considered that the most practicable management option is to undertake a phased removal and replacement of the subject trees, occurring in 2 stages at approximately five year intervals.

## RECOMMENDATION

### THAT:

1. Council undertake to remove and replace the 24 Norfolk Island Hibiscus Street trees in Harrow Rd, Stanmore;
2. the removal and replacements be phased to occur in two stages approximately 5 years apart;
3. the first stage of removals comprise the 11 trees located between numbers 2-30 Harrow Rd;
4. the second stage of removals comprise the 13 trees located between numbers 40-64 Harrow Rd; and
5. the replacement trees be comprised of a single appropriate deciduous species so as to afford winter solar access and summer shade benefits to south west facing dwellings.

## BACKGROUND

### Between 1999 and February 2008:

Council received nine (9) resident complaints (MERIT) regarding the Norfolk Island Hibiscus street trees planted on the northern side of Harrow Rd, Stanmore (Attachment 1). Seven (7) of the complaints related to the seasonal infestation of the subject trees by Cotton Harlequin Bug (*Tectoris diopthalmus*). One (1) complaint related to the large amounts of flower litter produced by the trees. One (1) further complaint related to both the flower litter and the trees' production of 'glass-like' hairs from their seed pods that cause skin irritations and get stuck in residents' feet (**ATTACHMENT 1**).



## Item 5

February 2011:

Letters received from the residents of 4 & 8 Harrow Rd expressing their concerns over the problems associated with the subject trees. The residents complained about the “glass-like” hairs getting stuck in their feet and causing rashes to themselves; their children and babies; and their pets. There were also concerns regarding the amount of fruit litter produced by the trees and possible damage to their property by roots of the trees. Both residents requested that the trees be removed (**ATTACHMENTS 2 & 3**).

May 21 2011

Letter received from resident of 4 Harrow Rd submitting a petition by 27 residents of Harrow Rd for Council to remove the subject trees.

## DISCUSSION

- **Bugs infesting the trees and getting into houses**

The Cotton Harlequin Bug (*Tectoris diopthalmus*) is associated with the occurrence of seasonal infestations on trees of the hibiscus family (*Malvaceae*) of which the subject trees *Lagunaria patersonia* (Norfolk Island Hibiscus) are a member. These bugs suck sap from the leaf veins of the trees however damage is rarely serious and generally does not cause long term damage to the tree. As such control of the bugs for arboricultural purposes is not warranted.

To eliminate the seasonal nuisance of the bugs entering private yards and houses an annual programme of insecticide application to all of the subject trees and other areas affected by the bugs would be required. The obvious public health concerns and adverse public perceptions associated with such an undertaking preclude it as a practicable management option.

- **Flower and leaf litter makes paths slippery**

*Lagunaria* trees produce a large amount of fleshy flowers in spring. These naturally drop to the ground producing a seasonal litter problem that could conceivably be mitigated by increased frequency of streetscape maintenance over the flowering period, but which would occupy limited staff resources at a time of year where the streetscape maintain workload is reaching its peak.

- **The trees produce ‘spikes’ that enter houses and get into carpets and stick in feet. Reports of spikes causing allergic rashes on children and dogs.**

It is widely reported that the small hairs produced inside the seed pods of *Lagunaria* can cause irritations or allergic reactions if contact is made with the skin. It is also widely reported that the spikes can cause much discomfort if trapped in carpets or clothing. Unlike the production of flower litter, the prolific occurrence of the spiky hairs is a constant problem as the open seed pods are retained on the trees over a long period thus disseminating the spikes consistently year round.

It is unlikely that increased streetscape maintenance would be able to mitigate the existence of the spikes to any desirable degree owing to their small size and that they are dispersed over a wide area by wind.

## CONCLUSION

It is the stated position of Council that public trees will generally not be considered for removal unless they are dead, diseased, dying, imminently dangerous or causing major damage to infrastructure or private property. Although the subject trees do not qualify for consideration of removal under the above parameters there is sufficient cause to determine that the trees are detrimentally affecting the quality of life of the residents of Harrow Rd. A such *they should be a nuisance and are considered for removal and replacement*. This is especially the case since mitigation of the problems caused by the production of the spikes/hairs by the trees is unlikely to be achieved by other practicable means.

Justification for the removal of the subject trees is given added credence by the species being listed as exempt from protection by the Marrickville DCP 2011. It is widely considered that the species is not suitable for use as a street tree due to the problems associated with the production of the glass like hairs/spikes that are the cause of such consternation by many residents of Harrow Rd.

## Removal and Replacement

The mass removal of all subject *Lagunarias* in Harrow Rd has merit in that it would allow for the mass replacement of a new avenue of same aged trees, which is a highly desirable component of successful street tree avenues. However the detriment of mass removal is, of course, the reality of complete removal of tree amenity from the streetscape and local environs for a number of years and the potential generation of negative public sentiment in the wider Marrickville community through such an undertaking. A more prudent and socially amenable approach would be to undertake staged removal and replacement of the subject trees in which approximately half the trees are removed and replaced in the first instance and then a second 'block' of removals and replacements are carried out around five years later. In this way the negative impact of complete removal could be somewhat lessened by providing a burgeoning avenue of five year old trees to compensate for the loss of the second round of removals.

**ATTACHMENT 4** shows an aerial photo of Harrow Rd indicating the number of *Lagunaria* trees (stars) and the addresses of signatories to the petition (squares). It shows that there are 24 *Lagunaria* trees in the street and that there is a break in the avenue of these trees between numbers 30-40 Harrow Rd. This break creates two distinct groups of *Lagunaria* trees in Harrow Rd, one being those between numbers 2-30 (11 trees) and the other being those between numbers 40-64 (13 trees). The grouping of the subject trees along Harrow Rd in this way provides for a clear delineation on which to base the staged removal and replacement process.

It is recommended that the first round of removal and replacements be of the group of trees between numbers 2-30 Harrow Rd. The most persistent complaints against the subject trees are from the residents of this area of Harrow Rd. Also five of the subject trees in this group are poorly performing specimens due to being overshadowed by private trees and should be removed in any case.

Due to the southerly aspect of the houses on the subject side of Harrow Rd it is recommended that the replacement trees be deciduous to allow the dwellings to take advantage of winter solar access and summer shade. Some appropriate species for consideration are:

- *Acer buergeranum* Trident Maple
- *Fraxinus angustifolia* 'raywood'. Claret Ash
- *Jacaranda mimosifolia* Jacaranda
- *Koelreutaria paniculata* Golden Rain Tree
- *Caesalpinia ferrea* Leopard Tree

Item 5

Final selection of the replacement species will be undertaken as part of the wider community consultation for the whole project.

### FINANCIAL IMPLICATIONS

The approximate cost of required works is as follows:

#### Removal

Phase 1: **\$9,000**

Phase 2: **\$13,000 (including escalation)**

#### Replacement

(contract planting of 100L size trees with 12 weeks maintenance period)

Phase 1: **\$28,000**

Phase 2: **\$39,000 (including escalation)**

The works can be funded from Council's existing tree management budgets.

### OTHER STAFF COMMENTS

Director, Planning and Environmental Services comments:

*"The Acting Manager, Environmental Services, recommends that any decision made as to removing these trees is guided by the Marrickville Urban Forest Strategy and Policy and considerations for replacement species also consider the guidelines in the Biodiversity Strategy 2011-2021 and Biodiversity Action Plan 2011-2015."*

In this regards, tree species selection will be determined through the Street Tree Master Plan which yet to be developed.

### PUBLIC CONSULTATION

Community consultation will be undertaken prior to implementation of the project.

### RECOMMENDATION

**THAT:**

1. Council undertake to remove and replace the 24 Norfolk Island Hibiscus Street trees in Harrow Rd, Stanmore;
2. the removal and replacements be phased to occur in two stages approximately 5 years apart;
3. the first stage of removals comprise the 11 trees located between numbers 2-30 Harrow Rd;
4. the second stage of removals comprise the 13 trees located between numbers 40-64 Harrow Rd; and
5. the replacement trees be comprised of a single appropriate deciduous species so as to afford winter solar access and summer shade benefits to south west facing dwellings.

**ATTACHMENTS**

1. Merit & Trim History of Lagunaria Street Trees in Harrow Rd
2. Resident letter from Harrow Rd regarding Norfolk Island hibiscus Street trees
3. Writing regarding Native Hibiscus tree outside Harrow Road Stanmore that causing damage
4. Aerial photo indicating proposed Norfolk Island Hibiscis removals In Harrow Rd Stanmore

**Attachment 1: Previous MERITS & TRIM regarding the subject trees**

**35696: 1999** - Tree is infested with bugs (in the bug season), bugs come into the house, bedroom. Wants tree removed.

**45736: 2000** - There is a plague of insects that have infested the street trees which are outside the resident's property.; The insects have now infected the resident's property and they are coming inside the property.; The trees need to be removed.

**51000: 2000** - Street trees along Harrow Rd that are dropping flowers & spikey things on the footpath that makes it slippery for pedestrians & also makes a large mess. The trees are outside 64 Harrow Rd; Stanmore (corner of L shape); near Trafalgar St. The trees have been like this for a few years. Please inspect & if possible; replace the trees with more suitable trees.

**109180: 2002** - The street tree outside 40 Harrow Road: public health danger to resident; The street tree has many bugs that are coming into the house. The resident's plants in the front yard have also been covered by the bugs coming from the tree. The bugs are also making nests in the electricity lines. All the street trees which are of the same variety along Harrow Road.

**128762: 2003** - Customer has problem with tree out the front of property of 4 Harrow Rd Stanmore - there are bugs, bees, and other insects on tree - the branches of this tree are falling into the customers property - customer is also attacked by the insects when getting mail from mailbox at front of property - request tree is treated and pruned.

**137113: 2003** - Citizen requests street trees outside numbers 54 & 56 Harrow Rd; Stanmore require pruning. They are both infested with beetles that are falling on pedestrians and coming into the properties.

**203032: 2005** - Anna called to request council rid the trees o/s her property at 4 Harrow Rd Stanmore of the black bugs that appear every year and are clogging up her letterbox and yard and her gate she claims to have called Council about it last year and nothing has been done she also suggests that Council prune back the tree so it does not overhang her property so this in turn means no bugs in her yard thanks.

**379857: 2007** - Could we please prune tree in front of Citizen's house. It's really bad. There are bugs and pricks that fall down from the tree and Citizen can't walk barefoot in his own yard. Even their letterbox is full of bugs. Citizen says he would chop it down if he could. Could Council put in another tree that doesn't need so much maintenance?

**519222 : 2008** - Citizen called to report that the tree along the street is causing a number of problems. Flowers and leaves are continuously dropping onto the footpath making the surface slippery.

**713717: 2011** - I am a resident of 8 Harrow Road Stanmore. Unfortunately we are experiencing several problems with a most child unfriendly tree on the footpath. The Norfolk Island hibiscus as we have discovered is also known as 'itchy cow.'

First of all, we were getting these prickly things on our feet. Then the tree dropped flowers everywhere that were slippery and very hard to clean; I nearly fell over with the baby; then the Rosella bird nests; and we thought we had bird lice because the tree literally overhangs near our roof.



We couldn't figure out what it was so we got the pest man to come out. He couldn't figure it out either. As it turns out, it is the tree.

The roots of the tree are damaging our property and I think it would be better and safer to have the tree replaced with something friendly for families.

In the meantime it is about to drop fruit which is going to be yet another problem. Is it possible to get the tree pruned and the mess cleaned? How can such a lovely looking tree be so full of hazard?

**715109: 2011** - please see attached report regarding tree causing health and safety issues at this location ( sample of spikes is also attached ) TRIM 8420.11.

**TRIM 8420.11:** 10/02/2011 - Writing regarding Native Hibiscus tree outside 4 Harrow Road Stanmore causing damage.

**TRIM 32777.11** : 25/05/2011 - ENVIRONMENTAL MANAGEMENT - PERMIT - Petition - Removal and replacement of the hibiscus trees on Harrow Road Stanmore

## Item 5

Attn: Philip Jackson, Tree Management Officer

Dear Philip

I am a resident of Harrow Road Stanmore. Unfortunately we are experiencing several problems with a most child unfriendly tree on the footpath. The Norfolk Island hibiscus as we have discovered is also known as 'itchy cow.'

First of all we were getting these prickly things on our feet. Then the tree dropped flowers everywhere that were slippery and very hard to clean. Then the Rosella bird nests and we thought we had bird lice because the tree literally overhangs near our roof.

We couldn't figure out what it was so we got the pest man to come out. He couldn't figure it out either. As it turns out, it is the tree.

The roots of the tree are damaging our property and I think it would be better and safer to have the tree replaced with something friendly for families.

In the meantime it is about to drop fruit which is going to be yet another problem. Is it possible to get the tree pruned and the mess cleaned?

How can such a lovely looking tree be so full of hazard?

Thank you and kind regards

## Attachment 2

6 February 2011

General Manager  
Marrickville Council  
PO Box 14  
Petersham NSW Australia 2049



██████████ Harrow Road  
Stanmore NSW 2048

To the General Manager,

My name is ██████████ Harrow Road Stanmore. I am writing in regards to the Native Hibiscus tree outside the front of my house. Since my ██████████ and I have moved into the property █ years ago, this tree has caused us a great deal of stress and a great concern for our health.

We have put through our concerns on numerous occasions via telephone to council regarding this matter with no real result. Council has maybe once or twice trimmed this tree. This has not solved our problem in any way as it grows back within a short space of time.

This tree has tiny needle like spikes in it which are covering our entire front yard, garbage bins, car and generally our whole house. These spikes are extremely painful and difficult to remove from the skin. We have spoken to neighbours who have the same issues.

We are unable to walk through our own home barefoot as they get imbedded in our skin. These spikes are also affecting family and friends who come to visit. As rate paying citizens we believe that we should be able to walk through our own home safely.

Our dog has been severely affected by these spikes, constantly suffering from skin conditions which are most likely being caused by these spikes. This has resulted in numerous visits to the vet and has become extremely costly.

I am concerned for all our health and wellbeing and am hoping that this matter is addressed as soon as possible as this has been ongoing for the pas █ years.

We would like this tree to be removed and a more suitable and safer one re-planted. If we do not get the desired result I can assure you that we will be taking this matter further and will take it to the media as we are tired of living with the effect that this tree is having on our lives.

Please find enclosed a letter from our dogs vet, photos of the tree as well as a sample of the spikes.

Thank you for taking the time in reading this and I look forward to hearing from you soon. I can be contacted on ██████████

Regards,





Item 5

Seite 1



Attachment 3



Seite 1

Item 5



Attachment 3



Item 5

21 May 2011

General Manager  
Marrickville Council  
PO Box 14  
Petersham NSW 2049



██████████  
██████ Harrow Road,  
Stanmore, NSW 2048

To Whom It May Concern,

Please find enclosed a petition for the removal and replacement of the Hibiscus Trees on Harrow Road Stanmore. I wrote to Council in February 2011 asking for these trees to be removed and replaced due to health and safety reasons to no avail.

I have now petitioned the residents of Harrow Road, and as you can see the majority of residents on the Hibiscus side of the street are in agreement to have them removed and replaced with more suitable trees.

I hope that you take this matter seriously as we the residents are tired of living with the ongoing stress that these trees have been causing.

Thank you for taking the time to read this and I look forward to hearing from you soon.

Kind Regards,



Attachment 3

6 February 2011

General Manager  
Marrickville Council  
PO Box 14  
Petersham NSW Australia 2049

█ Harrow Road  
Stanmore NSW 2048

To the General Manager,

My name is █ Harrow Road Stanmore. I am writing in regards to the Native Hibiscus tree outside the front of my house. Since my █ and I have moved into the property █ years ago, this tree has caused us a great deal of stress and a great concern for our health.

We have put through our concerns on numerous occasions via telephone to council regarding this matter with no real result. Council has maybe once or twice trimmed this tree. This has not solved our problem in any way as it grows back within a short space of time.

This tree has tiny needle like spikes in it which are covering our entire front yard, garbage bins, car and generally our whole house. These spikes are extremely painful and difficult to remove from the skin. We have spoken to neighbours who have the same issues.

We are unable to walk through our own home barefoot as they get imbedded in our skin. These spikes are also affecting family and friends who come to visit. As rate paying citizens we believe that we should be able to walk through our own home safely.

Our dog has been severely affected by these spikes, constantly suffering from skin conditions which are most likely being caused by these spikes. This has resulted in numerous visits to the vet and has become extremely costly.

I am concerned for all our health and wellbeing and am hoping that this matter is addressed as soon as possible as this has been ongoing for the past █ years.

We would like this tree to be removed and a more suitable and safer one re-planted. If we do not get the desired result I can assure you that we will be taking this matter further and will take it to the media as we are tired of living with the effect that this tree is having on our lives.

Please find enclosed a letter from our dogs vet, photos of the tree as well as a sample of the spikes.

Thank you for taking the time in reading this and I look forward to hearing from you soon. I can be contacted on █

Regards,

█

Item 5



Attachment 3







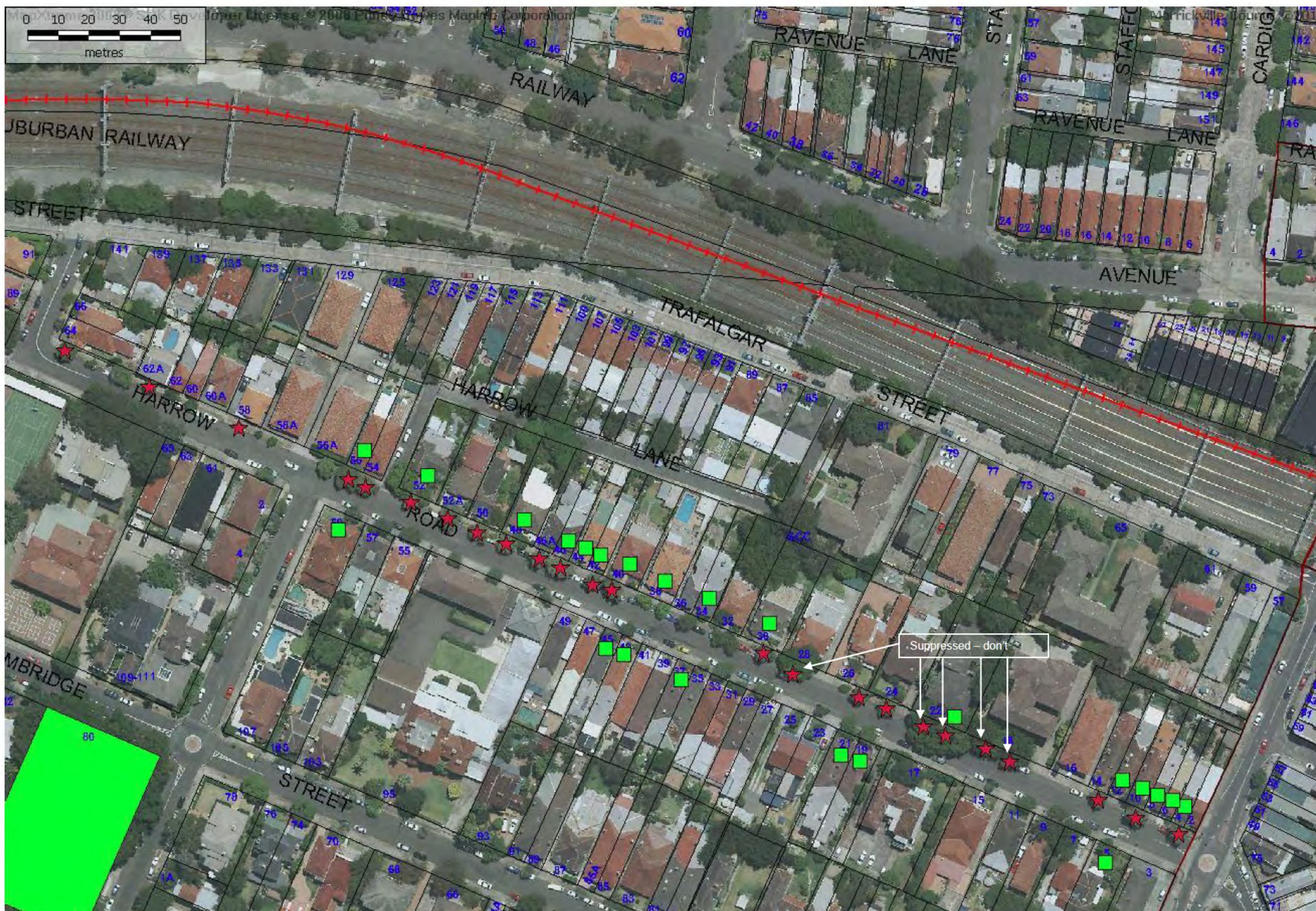
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Attachment 3



ATTACHMENT 5: Aerial photograph of Harrow Rd Stanmore (stars indicate *Lagunaria patersonii*, squares indicate signatories to the petition)





## Item 6

**Item No:** C1211(1) Item 6**Subject:** FEDERAL GOVERNMENT INFRASTRUCTURE FUNDING- LIVEABLE CITIES PROGRAM - POTENTIAL PROJECTS FOR MARRICKVILLE LGA**File Ref:** 4261-02/66325.11**Prepared By:** Justin Fitzpatrick-Barr - Manager, Property Services and Marcus Rowan - Manager, Planning Services**SYNOPSIS**

Council considered a report on a proposed refurbishment of Marrickville Town Hall Forecourt. at its meeting on 15<sup>th</sup> November 2011. Following consideration of the matter the Council resolved to investigate sources of Federal funding and other grant money for further improvement projects to Marrickville. Council also resolved to review a list of major potential infrastructure projects including the upgrading of the forecourt of Marrickville Town Hall. This report provides an over view of the Federal funding currently available for infrastructure projects and provides a list of potential projects that meet the criteria spelt out in the associated guideline.

**RECOMMENDATION****THAT:**

1. Council applies for \$150,000 of funding through the Liveable Cities Program, Stream 1 – Planning & Design, to facilitate the undertaking of a Public Domain Strategy;
2. Should Canterbury Council be prepared to be the lead applicant in the Wardell Road Crossing project then Council make an application for this also under Stream 1 – Planning & Design; and
3. Council applies for \$450,000 under the same program, through Stream 2 – Demonstration Projects, to support the undertaking of the Station Street Marrickville project.

**BACKGROUND**

On 15 November 2011 Council considered a report on the proposed refurbishment of Marrickville Town Hall Forecourt. Following consideration of the matter the following Motion was adopted;

**THAT:**

1. Council investigate sources of Federal funding and other grant money for further improvement projects to Marrickville. The Council review the list of major potential infrastructure projects including the upgrade redevelopment of the forecourt of Marrickville Town Hall; and
2. If grant money is not available, the staff come back to Council with a reduced costed plan for Marrickville Town Hall Forecourt.

This report provides an over view of the Federal funding currently available for infrastructure projects and provides a list of potential projects that meet the criteria spelt out in the associated guideline.

## DISCUSSION

The Federal Government recently established the Liveable Cities Program (LCP) to improve the quality of life in our cities. The LCP is a \$20 million program over 2011-12 and 2012-13 funded by the Australian Government to help improve planning and design in capital cities and major regional cities that are experiencing population growth pressures and housing and transport affordability cost pressures.

There are two streams of funding under the LCP:

### Stream 1 - Planning and Design

Projects seeking funding under this stream can apply for funding contribution of up to \$500,000. The types of projects that could be funded under this stream include:

- Strategic planning for regional major cities
- Precinct planning
- Public and active transport network planning
- Corridor planning and protection
- Planning for projects, for example feasibility studies that meet the objectives and selection criteria for demonstration projects under Stream 2

### Stream 2 – Demonstration Projects

Projects seeking funding under this stream can apply for funding contribution of up to \$4 million. The types of projects that could be funded under this stream include;

- Development of mixed use precincts that optimise public transport projects
- Improving the usability of public transport, walking and cycling networks
- Urban renewal
- Delivery of higher quality public spaces and streetscapes
- Innovative residential developments that promote affordability, adaptability and accessible design
- Optimisation of existing infrastructure by using technology
- Improving the environmental outcomes of precinct developments

Applicants need to demonstrate how the projects funded under both streams will be completed within the two year life of the program.

Stream 2 – Demonstration projects must be ready to proceed when funding arrangements are finalised. For a project to be considered 'ready to proceed' it is expected that all relevant approvals and planning requirements are in place.

Funding arrangements will be finalised in March – April 2012.

Under the LCP the Federal Government will contribute a maximum of 50% of the project cost.

LCP applications must be submitted to the Department of Infrastructure and Transport by 15<sup>th</sup> December 2011.

## Potential Liveable Cities Program Projects for Marrickville

### Stream 1 – Planning and Design

#### Public Domain Strategy

As reported to Council on 15<sup>th</sup> November 2011, Councils' Manager Planning Services is currently preparing a project brief to seek the services of a consultant team to undertake a Public Domain Study (PDS).

The purpose of the PDS is to identify and develop strategies, plans, guidelines, processes, designs and other mechanisms that will assist the management and improvement of the public domain throughout the Marrickville LGA. The aim is for the public domain in the Marrickville LGA to be more cohesive, coordinated, functional, high quality in design, accessible to all, safe and secure, environmentally sustainable and generated through a collaborative process.

It is a recommendation of this report that Council makes a LCP application under Stream 1 – Planning & Design for funding of approximately \$100-150K to undertake the Marrickville Public Domain Strategy. Council's matching contribution is already funded and the draft project brief is currently with internal stakeholders for review.

#### Wardell Road – Pedestrian/Cycle Crossing

In considering other suitable projects, it emerged that there is potential for Marrickville and Canterbury Council's to consider making a Stream 1 application to plan & design a widening or alternative pedestrian/cyclist crossing at Wardell Road Bridge, which straddles both LGAs.

A detailed summary of this project is provided as **ATTACHMENT 1**.

Discussions with Canterbury Council are being conducted to determine whether it is prepared to lead the application. This is necessary as Council's are only able to seek funds for one project in each Stream, other than as part of a consortium. Should Canterbury Council be prepared to be the lead applicant then it is recommended that Council also make an application for this project.

### Stream 2 – Demonstration Projects

#### Greenway Trail

Council Officers initially identified merit in applying for a GreenWay Trail project, given the potential benefit of such a project to the Marrickville Community. However, through investigations it became evident that such a project would not be suitable for Stream 2 funding due to a number of critical obstacles; being the probable cost involved in Council providing 50% matched funding, the project not being at a 'shovel-ready' stage and the Council not being the responsible authority or landowner.

#### Marrickville Town Hall Forecourt

An alternative to the GreenWay Trail option is the proposed Marrickville Town Hall Forecourt upgrade, which was reported to Council at its 15 November meeting. This report contained a cost estimate based on a proposed scope of works that included restoration to the Winged Victory memorial steps, gold lettering around the memorial base and new underground lighting, along with new street furniture, paving, new suitable trees, improved lighting and a potential bus stop relocation. The estimated cost for a full refurbishment of the Marrickville Town Hall frontage is in the order of \$450,000.

As part of the LCP grant application, Council may wish to also include the replacement of the Winged Victory Statue with a new bronze replica statue. As previously reported to Council the cost of a new bronze replica statue is in the order of \$300,000.

#### Station Street (and surrounds), Marrickville – Proposed Shopping Centre Upgrade

Station Street, Marrickville is situated just south of the geographical heart of the Marrickville Local Government Area. This small shopping strip is approximately midway along the Illawarra Road retail centre at Marrickville and adjacent to Marrickville Station. Its close proximity to the train station means that many pedestrians traverse through this location as they travel to and from the Station. The Shopping strip is in need of enhancement and, the project proposes to carry out reconstruction and enhancement of the shopping centre in Station Street, Marrickville and the immediate surrounding area.

Council has developed initial concept designs for the proposed Station Street (and surrounds) enhancement works which include:-

- Full decorative paving of Station Street footpaths and making the area a shared zone.
- Partial raising of the road way in Station Street (near train station) and decorative paving;
- Full decorative paving of footpath in Schwebel St and kerb extensions;
- Resurfacing of the surrounding adjacent Lane
- Parallel parking on both sides of Station Street, where possible;
- Changing traffic flows in Station Street from 2 way to one way to better accommodate traffic and pedestrian movements;
- Providing landscaping, including street trees and garden beds;
- Decorative bollards and street furniture in Station Street;
- Upgrade and extension of the existing stormwater system in Station Street only ,to better manage overland flows during storm events
- Water Sensitive Urban Design, including up to 2 raingardens and porous paving where feasible;

Based on the project description above, on a dollar for dollar basis, a LCP grant of \$450,000 would be sought, giving a total project budget of \$900,000. Design plans are currently being developed and officers anticipate having these ready for presentation at the December 2011 Traffic Committee with a report to Council in February 2012.

#### **CONCLUSION**

Council officers believe that the Public Domain Strategy (PDS) has the greatest merit for a LCP application under Stream 1 – Planning & Design. The PDS is seen as an important strategic tool to guide and assist future public domain improvement and management processes.

In considering suitable Stream 2 projects, Council officers believe that the Station Street project has the greatest merit based on assessed need and level of planning and design undertaken thus far. It is seen as a 'shovel-ready' project that meets the criteria spelt out in the LCP guidelines.



## Item 6

**FINANCIAL IMPLICATIONS**

If Council elects to choose the PDS as the Stream 1 application, Council officers will seek \$150,000 of funding through the LCP. Council's matching funds are available through s94 contribution. In respect to the Wardell Road Stream 1 option Council will need to fund its share of the project to the amount of \$25,000 if it and Canterbury Council were successful. This would be the subject of a future budget bid.

In considering suitable Stream 2 applications, if Council chooses to apply for funding for the Station Street project Council will be seeking \$450,000 of funds through the LCP. Council's matching funds are available through existing capital budgets.

**OTHER STAFF COMMENTS**

Nil.

**PUBLIC CONSULTATION**

Nil.

**RECOMMENDATION****THAT:**

1. Council applies for \$150,000 of funding through the Liveable Cities Program, Stream 1 – Planning & Design, to facilitate the undertaking of a Public Domain Strategy; and
2. Should Canterbury Council be prepared to be the lead applicant in the Wardell Road Crossing project then Council make an application for this also under Stream 1 – Planning & Design; and
3. Council applies for \$450,000 under the same program, through Stream 2 – Demonstration Projects, to support the undertaking of the Station Street Marrickville project.

Brian Barrett  
Director, Corporate Services

**ATTACHMENTS**

1. Federal Government Funding - Liveable Cities Program - Projects Options for Marrickville

**ATTACHMENT 1****Federal Government - Liveable Cities Program**

Project title: ***Design for an improved GreenWay crossing at Wardell Road Bridge over the Cooks River***

**Background**

In early 2011, the NSW Government approved the light rail extension and GreenWay. An important component of the GreenWay is a walk/cycle path (referred to as the GreenWay Trail) parallel to the light rail path and within the RailCorp corridor for most of its length. The GreenWay Trail would run north-south, providing a link two popular east-west pathways – the Iron Cove Bay Run to the north and the Cooks River Cycleway to the south. At the southern end, the GreenWay Trail would exit the corridor at Jack Shanahan Park, and would run along residential streets to Wardell Road. At that point it would utilise the narrow 1 lane footway on either side of the Wardell Road bridge over the Cooks River and its approaches. On the southern (Canterbury LGA) side of the bridge, the GreenWay Trail joins the Cooks River Cycleway.

Against the wishes of the GreenWay councils and community groups, improving the Wardell Road bridge has not been part of the NSW Government's GreenWay approval or construction brief. Thus is seen as a critical 'missing link', and to date there is no funding or other way forward for planning, design or construction of an improved crossing. As is explained below, there is a strong imperative to improve the walk/cycle crossing at the Wardell Road bridge prior to, or at the same time as, construction of the GreenWay Trail to avoid high levels of walk/cycle traffic utilising a dangerous footway.

**Need for project**

Most cyclists are forced to use the narrow footway on the bridge and its approaches as the traffic lanes are narrow and traffic is moving at speed (60kph). At only 1.8m wide, the footway makes passing by two cyclists or a pedestrian and a cyclist very difficult and dangerous, particularly as traffic (including trucks and buses) is moving at speed adjacent to the footway. It is particularly dangerous for children, whose cycling skills are not as developed as adults. It could be argued that even with the current modest level of walk/cycle traffic over the bridge, the current situation is unacceptable.

However, when the GreenWay Trail is constructed by the NSW Government, walk/cycle traffic over the bridge will increase substantially, and the situation will definitely be unacceptable. This project aims to have all design work in place for an acceptable walk/cycle crossing so that construction of the crossing will have been completed, or at least well underway, before the GreenWay is constructed. In this way, the dangers of high levels of walk/cycle traffic on the narrow footway will be avoided.

**Cost and scope of project**

It is proposed that the two stakeholder councils - Marrickville and Canterbury – each allocated \$25K (\$50K in total), and apply for 50/50 funding as a Stream 1 Liveable Cities Program project. If successful, \$100K would be available. This would be sufficient to undertake the following three tasks:

- (a) *Bridge options study* – which would investigate options available for a suitable/safe crossing, e.g. stand alone walk/cycle bridge or ‘clip on’ walk cycle bridge on side of existing road bridge. The study would identify a preferred option based on a number of criteria, including construction cost. This would involve stakeholder consultation.
- (b) *Environmental assessment and concept study for preferred option* – this would ensure that all environmental assessments had been undertaken and planning approvals obtained. These assessments would be both statutory and non-statutory. It would also include a brief examination of the context of the bridge crossing within a the broader context of the regional active transport network, including the GreenWay, Cooks River Cycleway.
- (c) *Detailed design* – This study would result in an accurate costing for the preferred option and a detailed design drawings sufficient to allow construction of the preferred option to proceed.

At this stage, I’m not aware that any further funding could be attracted from Roads & Maritime Services (formerly RTA). It is envisaged that most of the project budget would be expended in the second two tasks.

### Suitability of project

The project is regarded as a ‘Stream 1’ Liveable Cities Program project. It fits with the type of projects that could be funded under this stream, particularly the third type:

- strategic planning for regional major cities
- precinct planning
- **public and active transport network planning**
- corridor planning and protection

It also fits with the Program’s criteria of “planning for projects, for example feasibility studies, that may meet the objectives and selection criteria for demonstration projects under Stream 2”. For this criteria, applicants need to demonstrate how planning and design projects will be completed within the two year life of the program. The Wardell Road bridge design project would fit this criteria as it could be undertaken readily within a two-year timeframe, after which time, it could qualify as a Stream 2 (construction) project. See full list of Stream 1 criteria below.

### Additional information on GreenWay Trail

For GreenWay route maps and further background information, go to the Transport for NSW light rail program web page and the GreenWay web page:

<http://www.transport.nsw.gov.au/lightrail-program>  
<http://www.greenway.org.au/>

### Liveable Cities program criteria

The project would appear to fit these criteria:

“Core criteria for Stream 1 (Planning and Design):

1. Policy compliance: Extent to which the project will meet and deliver on one or more of the goals of productivity, sustainability and liveability within the National Urban Policy and/or the COAG National Criteria for Cities.

2. Partnerships in Planning and Delivery: The extent to which the project is a collaborative effort between levels of Government or across local government boundaries, and the extent of involvement/support of stakeholders, local communities, and other interested parties (for example, universities).

3. Strategic Alignment: Extent to which the project aligns with state, regional, local and/or precinct plans for the city.

4. Deliverability: Capacity of applicants to deliver the Australian Government funded component of the project within the life of the Liveable Cities Program (ending 30 June 2013), including confirmed partner funding arrangements, risk assessment of the project undertaken and mitigation measures in place and, where applicable, planning and development approvals in place (or will be in place before the funding arrangements are finalised). In the case of Stream 1 (Planning and Design) projects, the extent to which the proponent has committed to implement the outcomes of the planning project.

5. Funding: The extent to which projects have partner funding contributions.

Notably, it would also be a planning stream project with an estimated cost of \$100K (Council's each contributing \$25K subject). The funding would go towards (a) options study (b) concept design for chosen option and (c) detailed design for chosen option. Funding for construction would need to be pursued as a separate process with an estimated cost for a stand alone walk/cycle bridge in the order of \$2M. Canterbury Council would lead this application as Council's are only able to seek one lot of funding under either stream (unless as part of a consortium).



**Report No:** C1211(1) Item 7

**Subject:** MINUTES OF THE MARRICKVILLE TRANSPORT PLANNING AND  
ADVISORY COMMITTEE HELD ON 27 OCTOBER 2011

**File Ref:** 317-01/65634.11

**Prepared By:** Kendall Banfield - Transport Planner

### **SYNOPSIS**

The Marrickville Transportation Planning and Advisory Committee (Transport Committee) held a meeting to consider 11 items on 27 October 2011.

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### **RECOMMENDATION**

#### **THAT:**

1. Council receives and notes this report; and
  2. Council:
    - (a) writes to Roads & Maritime Services (RMS) requesting a speed limit reduction for Addison Road, explaining the rationale for this request;
    - (b) alters the 'no cycling' signs on Addison Road to make it clear that cycling is prohibited on the footway, not the roadway; and
    - (c) investigates works that could be implemented in the area of Addison Road near the community centre entry/exit to improve conditions for cycling.
- 

### **BACKGROUND**

The minutes of the 27 October 2011 Transport Committee meeting at **ATTACHMENT 1** summarise discussions which occurred at the meeting and are recommended for adoption.

### **FINANCIAL IMPLICATIONS**

Not applicable.

### **OTHER STAFF COMMENTS**

Relevant Council staff attended the 27 October 2011 meeting and draft meeting minutes were circulated to all Committee members and meeting attendees.

### **PUBLIC CONSULTATION**

Community representatives attended the 27 October 2011 meeting and draft meeting minutes were circulated to all Committee members and meeting attendees. The business paper was publicly available on Council's website before the meeting and final minutes are publicly available on the website as part of the normal reporting process.

**RECOMMENDATION****THAT:**

1. Council receives and notes this report; and
2. Council:
  - (a) writes to Roads & Maritime Services (RMS) requesting a speed limit reduction for Addison Road, explaining the rationale for this request;
  - (b) alters the 'no cycling' signs on Addison Road to make it clear that cycling is prohibited on the footway, not the roadway; and
  - (c) investigates works that could be implemented in the area of Addison Road near the community centre entry/exit to improve conditions for cycling.

Ken Hawke  
Director, Planning & Environmental Services

**ATTACHMENTS**

1. Minutes of the 27 October 2011 meeting of the Marrickville Transport Committee (4 pages)

**Meeting of the  
Marrickville Transportation Planning & Advisory Committee  
(Transport Committee)  
6-8pm Thursday 27 October 2011  
Function Room, Level 3, Marrickville Council  
2-14 Fisher Street, Petersham**

**MINUTES**

**Present**

Clr Peter Olive	Committee Chair, Marrickville Council
Neil Strickland	Director, Infrastructure Services, Marrickville Council
Richard Sage	Manager, Infrastructure Planning, Marrickville Council
George Tsaprounis	Traffic Engineer, Marrickville Council
Kendall Banfield	Transport Planner, Marrickville Council
Fiona Campbell	Community representative, Bike Marrickville
Ian Phillips	Community representative, Bike Marrickville

**Apologies**

Ken Hawke	Director, Planning & Environmental Services
Wal Petschler	Manager, Infrastructure Investigations & Design, Marrickville Council
Marcus Rowan	Manager, Planning Services, Marrickville Council
Glenn Redmayne	Strategic Community Project Officer, Access & Inclusion, Marrickville Council
Allan Miles	Community representative, Action for Public Transport
Francois LaRue	Regional Traffic Officer, Roads & Maritime Services (RMS), formerly Roads & Traffic Authority (RTA)

**ITEM 1: MINUTES OF PREVIOUS MEETING**

There were no comments on the minutes of the previous meeting, and the minutes were endorsed. The status of the action items from the last meeting were noted.

**Officer's recommendation:** That the minutes are endorsed, and any comments on the minutes are noted.

**Committee's recommendation:** Same as officer's recommendation.

**ITEM 2: WELCOME TO NEW CHAIR**

The Committee welcomed Clr Peter Olive as the new Chair.

**Officer's recommendation:** That the report is received and noted, comments/recommendations from the Committee are noted; and the Committee welcomes Clr Olive as the new Chair.

**Committee's recommendation:** Same as officer's recommendation.

**ITEM 3: BICYCLE WORKING GROUP**

The Committee discussed the approval and subsequent rescission motion in relation to the cycleway design on Carrington Road, Marrickville South. The Chair asked Council staff if there was enough width on Carrington Road to allow for a two-way separated cycleway whilst retaining kerbside parking on both sides of the road. The response was that whilst this may be possible, additional space is needed for the movement of heavy vehicles along Carrington Road and in and out of industrial properties and side streets joining Carrington

Road. Bike Marrickville members commented that if this could be achieved, there would be a speed reduction benefit from narrowing the traffic movement space on Carrington Road.

The Committee discussed the no-cycling signs that have recently been placed along Addison Road, Marrickville. A Bike Marrickville member suggested three measures to improve signage and conditions for cycling on Addison Road that were previously suggested by Bike Marrickville at the October 2011 Bicycle Working Group, i.e. reduced speed limit, removal of squeeze points adjacent to median crossings and inclusion of words on signs that cycling is prohibited on the footway (not the roadway). A Bike Marrickville member suggested that stencils on the footway could be used in addition to signs with minimal visual impact. With regard to the speed reduction, it was also noted that this would improve traffic safety in the area around the entrance/exit to the Addison Road Community Centre, which can be very busy, particularly on weekends. This led the Committee to draft a recommendation to Council as shown below.

**Officer's recommendation:** That the report is received and noted, and comments/recommendations from the Committee are noted.

**Committee's recommendation:** That Council:

1. writes to Roads & Maritime Services (RMS) requesting a speed limit reduction for Addison Road, explaining the rationale for this request;
2. alters the 'no cycling' signs on Addison Road to make it clear that cycling is prohibited on the footway, not the roadway; and
3. investigates works that could be implemented in the area of Addison Road near the community centre entry/exit to improve conditions for cycling.

#### ITEM 4: LIGHT RAIL & GREENWAY PLANNING

The Committee noted that the Save the GreenWay rally, scheduled for Saturday 29 October 2011, was only three days away. The Chair pointed out that a further rally outside Parliament House is also planned, at which Friends of the GreenWay representatives plan to present a petition to the NSW Government advocating construction of the GreenWay at the same time as the light rail extension.

The Transport Planner explained that at the last meeting of the Inner West Liaison Group (IWLG) for the project, the Department of Transport had pointed out that tunnelling through the road bridge culverts for the GreenWay path was assessed to be more costly and difficult than previously thought. This is one of the reasons why the GreenWay has been deferred, and is likely to result in the pathway crossing some of the roads at-grade rather than through a tunnel. A Bike Marrickville member suggested that the Councils could commission their own cost estimate for these works to verify if the Department of Transport's assertion is reasonable.

Regardless of the reasons why the GreenWay may have been deferred, there was general agreement at the meeting that not constructing the GreenWay at the same time as the light rail was not good financial management. This point should be raised by the councils and community groups in their advocacy efforts.

**Officer's recommendation:** That the report is received and noted and comments/recommendations from the Committee are noted.

**Committee's recommendation:** Same as officer's recommendation.

#### ITEM 5: PUBLIC DOMAIN PARKING STUDIES

The full list of studies, in approximate order of their completion, was in the business paper for this meeting. Council's Director, Infrastructure Services pointed out that the \$300K available for the studies was not likely to fund the full list of studies.



Council's Manager, Infrastructure Planning gave a brief progress report on these studies. The Tempe parking study is now underway, and it is expected that the Marrickville study will commence before the end of 2011. There was general discussion about use of Tempe Reserve for parking by Sydney Airport staff. The 3P parking restriction imposed on the main carpark in 2010 has been effective in that it has freed up parking space for park users. Sydney Airport staff (and some airport visitors), who had previously used this car park, are now parking on unrestricted kerbside spaces along Holbeach Avenue on the northern side of the reserve. This appears to be a satisfactory situation, as airport workers/visitors are being accommodated without affecting parking availability by park users or residents near the reserve.

The Committee discussed Tempe Reserve parking and the appropriateness of paid parking, noting that Sydney Airport, located some 600m from Tempe Reserve, was charging very high prices for parking. There was general agreement with Council's Manager, Infrastructure Planning that paid parking may be problematic as it would push parking demand into nearby residential areas and to other unrestricted parking areas nearby in the Rockdale LGA. The Transport Planner pointed out that Sydney Airport Corporation Limited (SACL) has a long-standing plan to construct a staff car park on airport land on the eastern side of the runway landing lights, to the north of Tempe Lands. A road bridge over Alexandra Canal will connect the car park to Airport Drive. When this carpark is built, airport-related parking demand in Tempe Reserve is expected to fall. These issues will be examined as part of the Tempe parking study.

There was a brief discussion about of the Newtown-Enmore parking study. Most of the recommendations of this study have now been implemented. An important recommendation of this study was a new set of resident parking schemes, and these have been implemented. The Traffic Engineer reported that whilst implementation was underway, there were many complaints and comments from the community about the schemes, but there are now few complaints or comments. The Transport Planner reported that discussions had recently recommenced between Council staff and Enmore Theatre management about the proposed shared parking arrangement with Enmore Design Centre, which is a recommendation of the Newtown-Enmore study.

**Officer's recommendation:** That the report is received and noted and comments/recommendations from the Committee are noted.

**Committee's recommendation:** Same as officer's recommendation.

## ITEM 6: ACCESSIBLE BUS SHELTERS

It was reported in the business paper, and explained at the meeting, that the Strategic Community Project Officer, Access & Inclusion and Transport Planner had identified four bus stops for consideration for the Accessible Bus Shelters project. Two of the bus stops are adjacent to Sydenham Station, one is on Enmore Road at Enmore Park and one is on Enmore Road at Newtown Bridge.

The Director of Infrastructure Services stated that the current Adshel bus shelter contract was drawing to a close and Council had the option to purchase existing shelters from Adshel or to remove shelters. The decision taken by Council would depend on the condition and suitability of each shelter. In any event, it provided an opportunity to improve problematic bus shelters. Advertising plays an important role in reducing bus shelter costs. Without advertising, each bus shelter costs of the order of \$20K to construct and around \$3K pa to maintain. With advertising, there are no costs, and the possibility of an income to Council. The Director of Infrastructure Services advised that the project team to examine City of Sydney bus shelter contracts and designs as part of this project. With regard to the Enmore Road shelter at Newtown Bridge, footway widening may be an option (subject to RTA approval), as has been achieved on other sections of Enmore Road.

**Officer's recommendation:** That the report is received and noted and comments/recommendations from the Committee are noted.

**Committee's recommendation:** Same as officer's recommendation.

#### ITEM 7: AIRPORT LINK & M5 CORRIDOR ISSUES

This item was intended for information only, and there was no discussion of this item at the meeting.

**Officer's recommendation:** That the report is received and noted and comments/recommendations from the Committee are noted.

**Committee's recommendation:** Same as officer's recommendation.

#### ITEM 8: CBD TO AIRPORT/PORT CORRIDOR STUDY

This item was intended for information only, and there was no discussion of this item at the meeting.

**Officer's recommendation:** That the report is received and noted and comments/recommendations from the Committee are noted.

**Committee's recommendation:** Same as officer's recommendation.

#### ITEM 9: TIMETABLE CHANGES

This item was intended for information only, and there was no discussion of this item at the meeting.

**Officer's recommendation:** That the report is received and noted and comments/recommendations from the Committee are noted.

**Committee's recommendation:** Same as officer's recommendation.

#### ITEM 10: OTHER BUSINESS

Three items of other business were raised at the meeting. The first item related to staffing. The new Transport Planner, formerly a transport planner at Camden Borough, London, is due to start in the Planning Services branch in January 2012. The new Traffic Management Planner, formerly a traffic engineer at Blacktown Council, starting in the Infrastructure Planning branch on in November 2011.

The second item was to formally welcome Richard Sage, Infrastructure Planning Manager, to the Committee. It was explained to the Committee that this position is relevant to the Transport Committee as strategic aspects of traffic/parking planning and management will be the responsibility of the Infrastructure Planning branch.

The third item was to advise that Council was undertaking community consultation for the new Marrickville Library and Committee members were encouraged to comment on transport or other aspects of the proposal.

**Officer's recommendation:** That the report is received and noted and comments/recommendations from the Committee are noted.

**Committee's recommendation:** Same as officer's recommendation.

#### ITEM 11: NEXT MEETING

The next meeting will be held at **6-8pm on Thursday 16 February 2012** in Council's Function Room.

The meeting concluded at 8:00pm.

**Item No:** C1211(1) Item 8  
**Subject:** REVIEW OF DLG COMPARATIVE DATA 2009/10  
**File Ref:** 217-01/66369.11

**Prepared By:** Kate Senior - Corporate Planner

## **SYNOPSIS**

The attached table provides an overview of the comparative data recently released by the Division of Local Government (DLG). The comparisons show that Marrickville continues to provide good value for money relative to other similar-sized urban councils. It continues to provide comparatively high rates of per capita expenditure across a range of service areas, while maintaining a low average residential rate.

Council has a similar level of dependence on rates to other comparable urban councils, but receives a greater share of its income from user charges, and a smaller proportion from developer contributions. In comparison to other councils, however, Marrickville has a high proportion of expenditure on employee costs.

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## **RECOMMENDATION**

### **THAT:**

1. the report be received and noted;
  2. the comparative data be used to inform the maintenance of the Delivery Program, Operational Plan and Resourcing Strategy; and
  3. the comparative data be used to inform service planning and provision.
- 

## **BACKGROUND**

The DLG has recently released its 2009/10 comparative information report for all NSW Councils. The DLG data profiles the performance of councils across a range of service areas as well as their relative rating and financial performance.

Comparative reporting on performance in planning and development and library services is undertaken by the Department of Planning and the State Library respectively. The 2009/10 comparative data has been accessed from these agencies, and discussion of these areas is also included here.

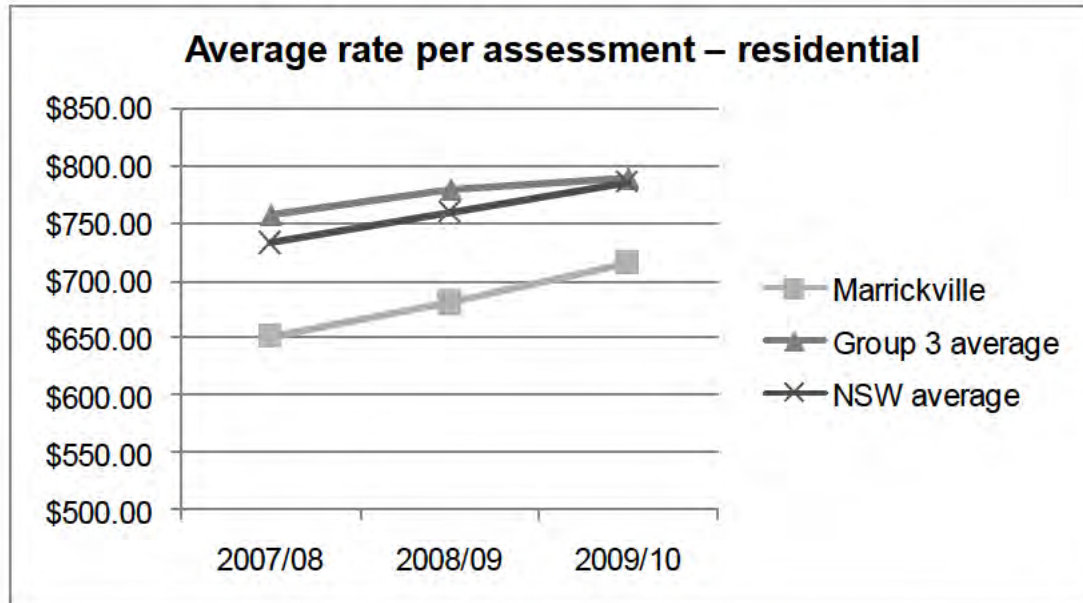
Marrickville is defined as a Group 3 council under the DLG classification: an urban local government area with a population between 70,000 and 120,000 people. Based on this classification Marrickville is smaller in terms of population (currently about 78,000 people) than other councils in Group 3. The discussion below thus includes some comparisons with Group 2 councils (urban councils with a population between 30,000 and 70,000 people) to provide a clearer picture of where Marrickville is performing in relation to similar sized urban councils.

## **DISCUSSION**

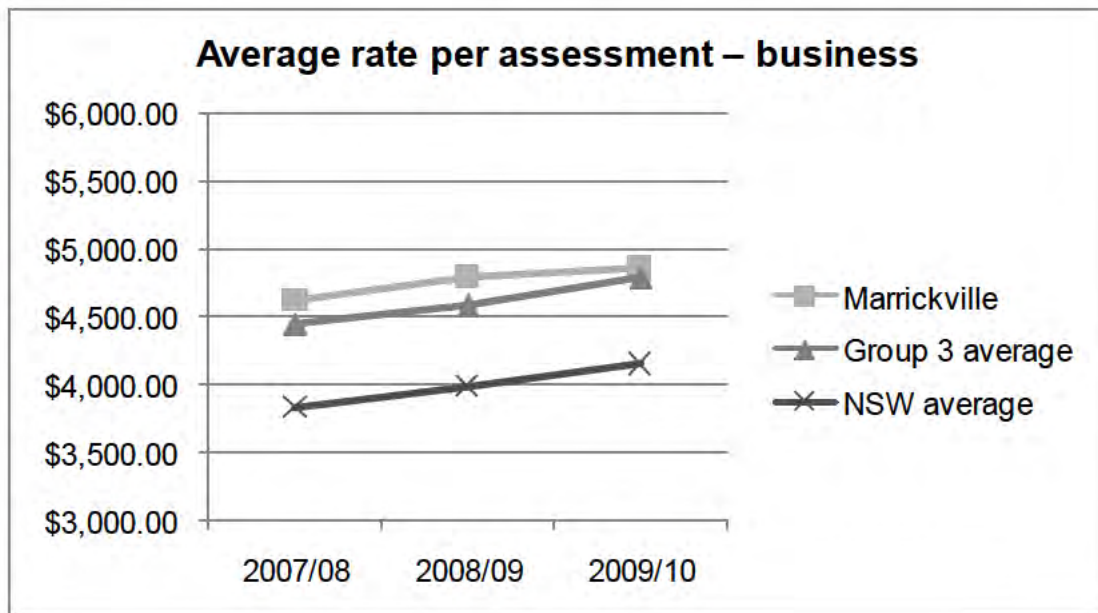
A table detailing Marrickville's performance in comparison to other councils in Sydney and NSW is provided at Attachment 1. The following points outline key findings in relation to our performance.

**Rating**

- The average residential rate for Marrickville was \$715.31 in 2009/10. Marrickville's residential rates have historically been lower than the Group 3 and NSW averages, and this situation continued in 2009/10, where the Group 3 average was \$789.54 and NSW average was \$785.90. Marrickville's average residential rate per assessment increased by 5.1%, higher than the average Group 3 (1.2%) and state (3.4%) increases.



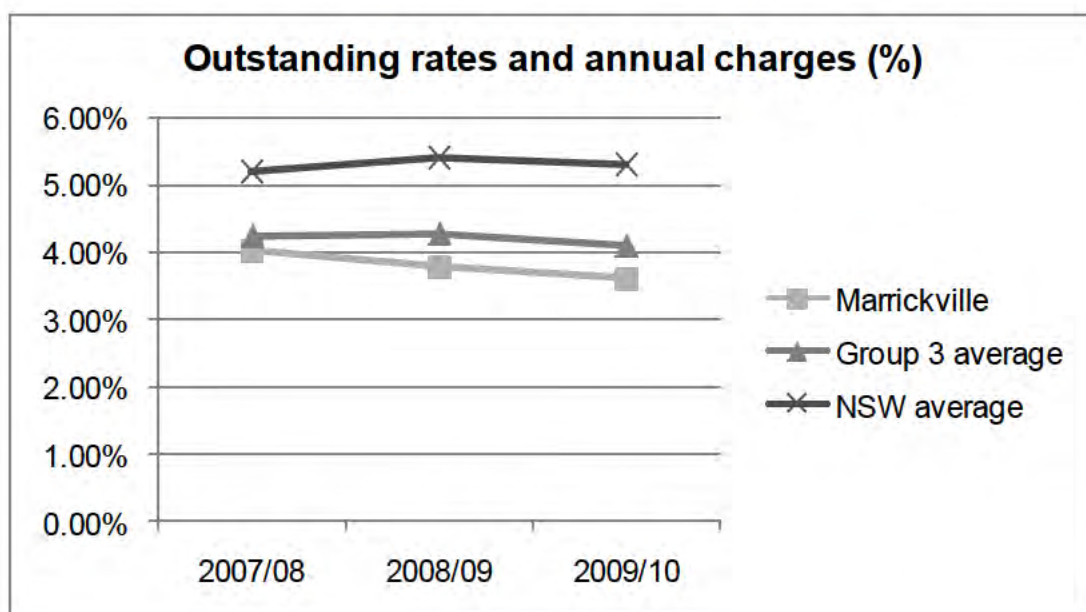
- Marrickville's average business rate (\$4,854.48 in 2009/10) was slightly higher than the Group 3 average (\$4,793.18 in 2009/10), but increased at a much lower rate (1.3% compared to 4.5%).





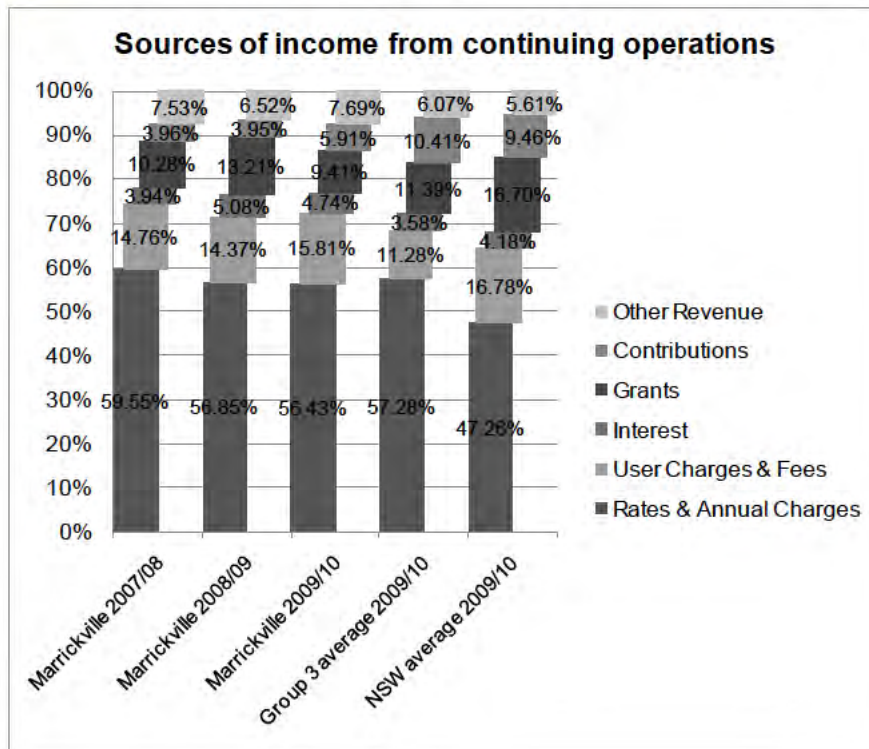
Item 8

- 3.61% of rates and charges levied by Marrickville in 2009/10 were outstanding, a 4.2% improvement on the result of 3.77% last year. This represents a better result than both the Group 3 (4.10%) and NSW (5.31%) averages.



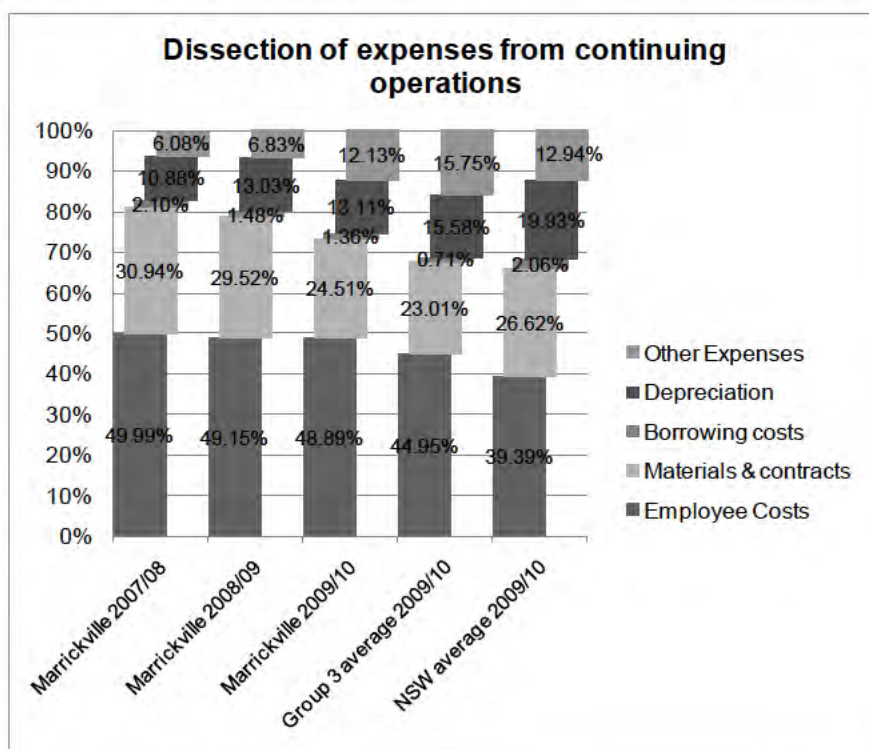
**Sources of income**

- Rates and charges made up approximately 56.43% of Marrickville's income in 2009/10, a 0.7% decrease on the 2008/09 figure of 56.85%. Marrickville has a slightly lower level of reliance on rates and charges than other Group 3 councils, which averaged 57.28% in 2009/10.
- Marrickville's level of dependence on user fees and charges increased by 10% in 2009/10. At 15.81% of the total, the proportion of income Marrickville received from user charges and fees continued to be significantly higher than the Group 3 average of 11.28%, but lower than the NSW average of 16.78%. User charges are commonly levied on water usage, trade waste and domestic waste management collection. Fees are generally charged for goods or services, providing information, and in connection with council's regulatory functions.
- The proportion of Council's income derived from development contributions increased significantly, from 3.95% of income in 2008/09 to 5.91% in 2009/10. This remains much lower than the Group 3 average of 10.41%, and the NSW average of 9.46%. This reflects the highly developed nature of the LGA, with limited Greenfield site development.
- Grants formed a lower proportion of total income, dropping from 13.21% in 2008/09 to 9.41% in 2009/10. The Group 3 average was 11.39% and the NSW average 16.70%.



### Expenses

- The proportion of its continuing expenses that Marrickville spent on employee costs (48.89% in 2009/10) remained considerably higher than both the Group 3 (44.95%) and NSW (39.39%) averages. However, Marrickville achieved a slight reduction in this area on the 2008/09 figure, while both the Group 3 and NSW averages increased slightly. The higher level of employee costs reflects Council's higher commitment to day labour in comparison with other councils.

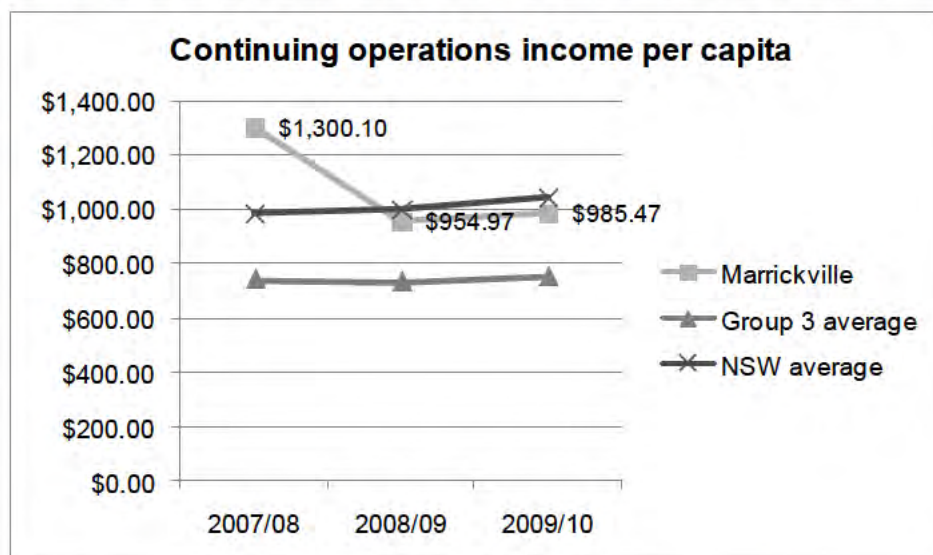




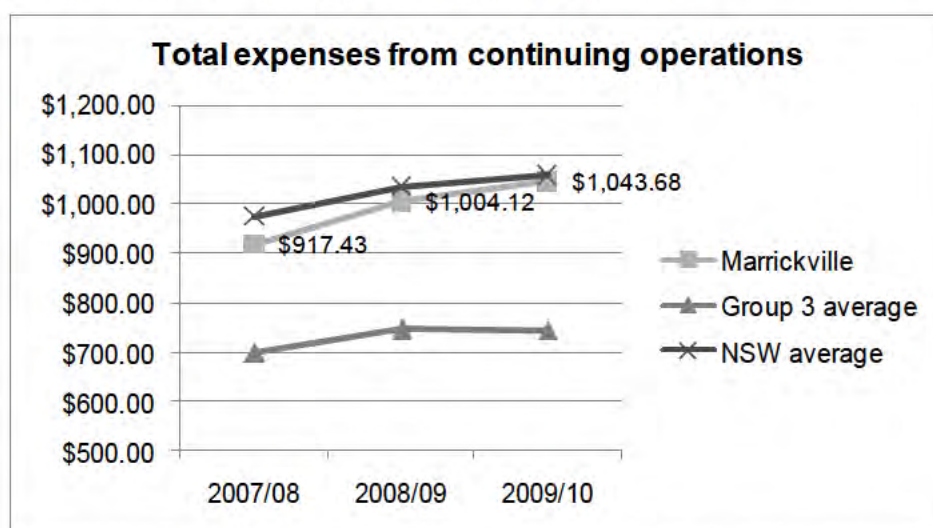
## Item 8

## Financial

- Marrickville's continuing operations income per capita increased by 3.2%, from \$954.97 in 2007/08 to \$985.47 in 2009/10<sup>1</sup>. It remains the highest of all Group 3 councils, but is lower than both the NSW average of \$1,042.77 and the Group 2 average of \$1,093.09.



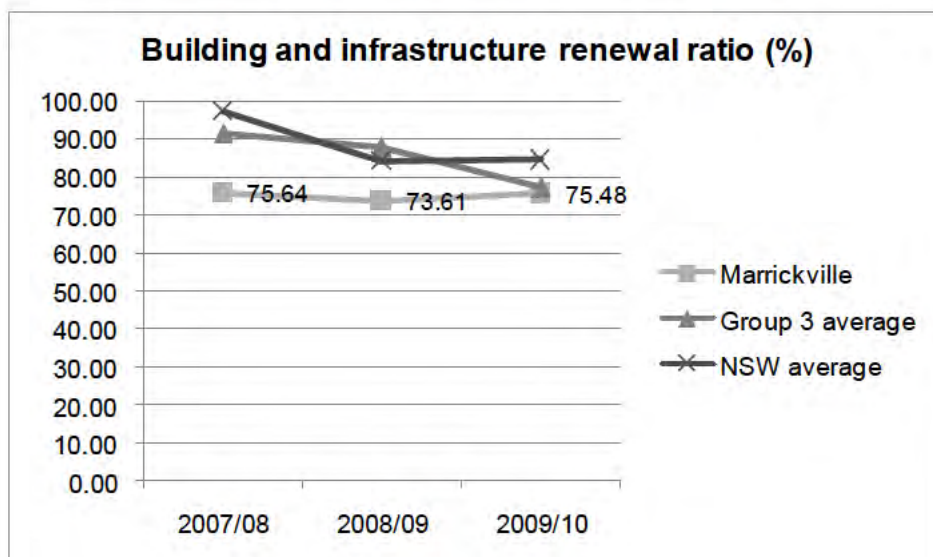
- Marrickville's total expenses from continuing operations per capita increased by 3.9% to \$1,043.68. Again, this was the highest of all Group 3 councils but below both the NSW average of \$1,055.82 and the Group 2 average of \$1,074.73.



- Marrickville had an unrestricted ratio of 3.69:1 in 2009/10, virtually unchanged since 2008/09. This indicator assesses a council's level of liquidity and its ability to satisfy financial obligations as they fall due in the short term. A ratio of 2:1 or better is generally perceived as good - and Marrickville performed better than both the Group 3 average (2.96:1) and the NSW average (2.71:1).
- Marrickville's debt service ratio (which measures the amount of revenue required to pay debt) improved slightly to 4.58:1 after a result of 4.36:1 in 2009/10. This result is better than the NSW average of 4.99:1, and Marrickville remains well below the debt service ratio considered to be of concern to the DLG.

<sup>1</sup> The higher figure for 2007/08 reflects the IKEA site sale.

- Marrickville's building and infrastructure renewal ratio<sup>2</sup> was 75.48%, a minor increase on the 2009/10 result of 73.61%. This compares to a Group 3 average of 77.14% and a state average of 84.41%. This measure indicates whether asset maintenance and replacement is keeping up with depreciation of the asset: a ratio of 1:1 indicates that the renewal of existing assets equals the amount of depreciation, amortisation and impairment. Marrickville's result indicates that assets depreciated faster than they were renewed.



### Corporate

- Marrickville's number of equivalent full time staff (known as 'FTE') was 509, which was 15.5% below the Group 3 average of 587.99. Marrickville's FTE number has remained relatively stable over recent years, at 490 in 2006/07, 487 in 2007/08 and 513 in 2008/09. There is a significant range in FTE numbers across both Group 2 and Group 3 councils, with Group 2 ranging from 59 at Hunters Hill to 561 at Waverley, and Group 3 ranging from 281 at Auburn to 1,376 at Blacktown.

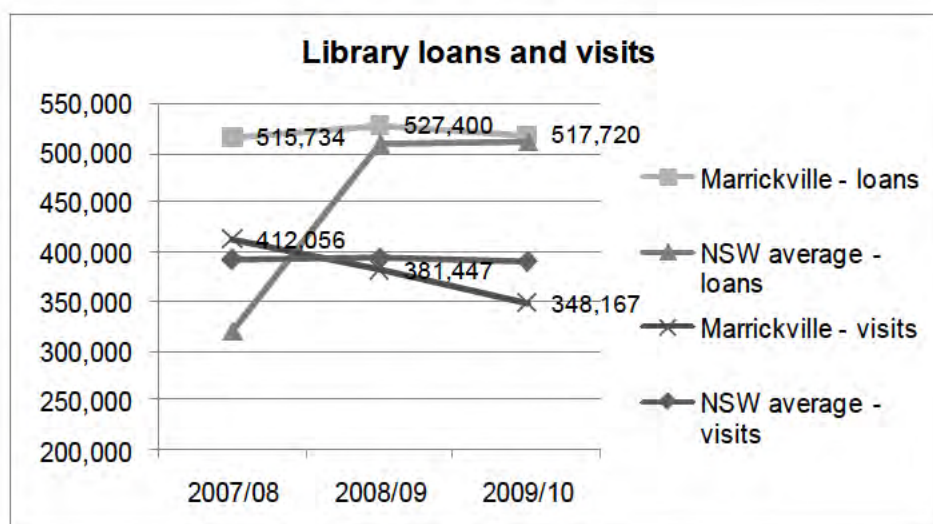
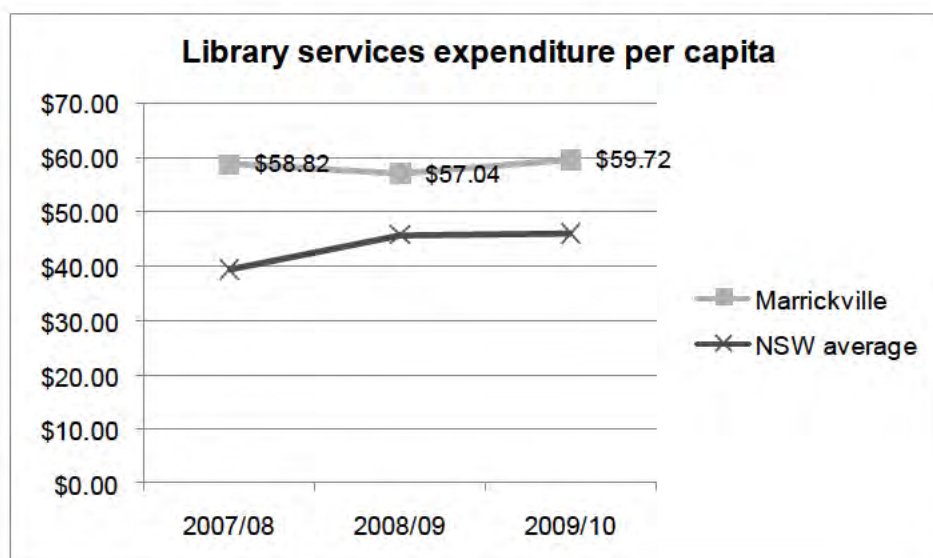
### Library Services

- At \$59.72, Marrickville spent 4.7% more per capita on library services than it did in 2008/09 (\$57.04), and spending per capita remained significantly higher than the NSW average (\$46.04). Marrickville's loans decreased by 1.8% over the same period (from 527,400 in 2008/09 to 517,720), and visits were also down by 8.7% (from 381,447 in 2008/09 to 348,167).

<sup>2</sup> The DLG previously reported a capital expenditure ratio. During the implementation of fair value of assets, the result did not give a true indication of amounts councils were spending on the renewal of assets. The building and infrastructure renewal ratio has now replaced the capital expenditure ratio.

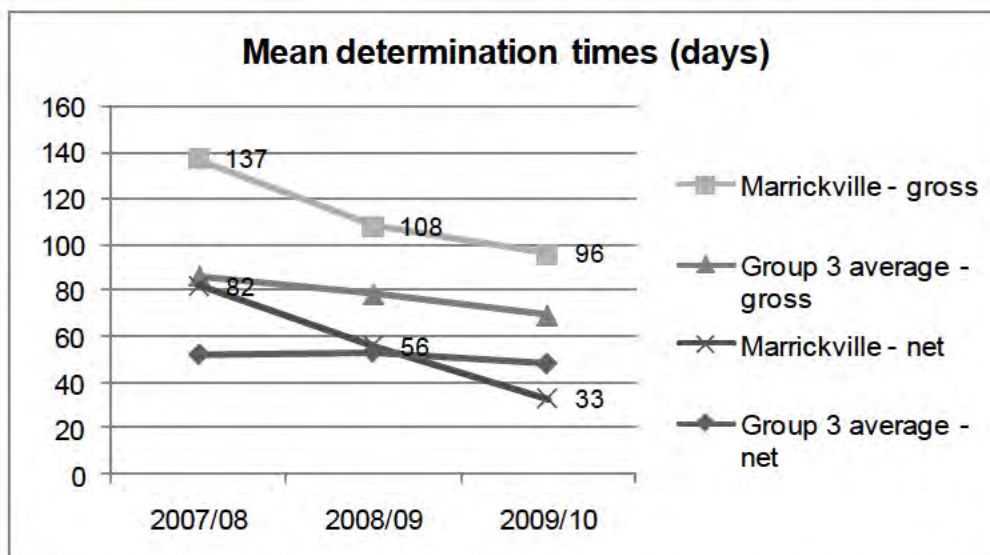


## Item 8

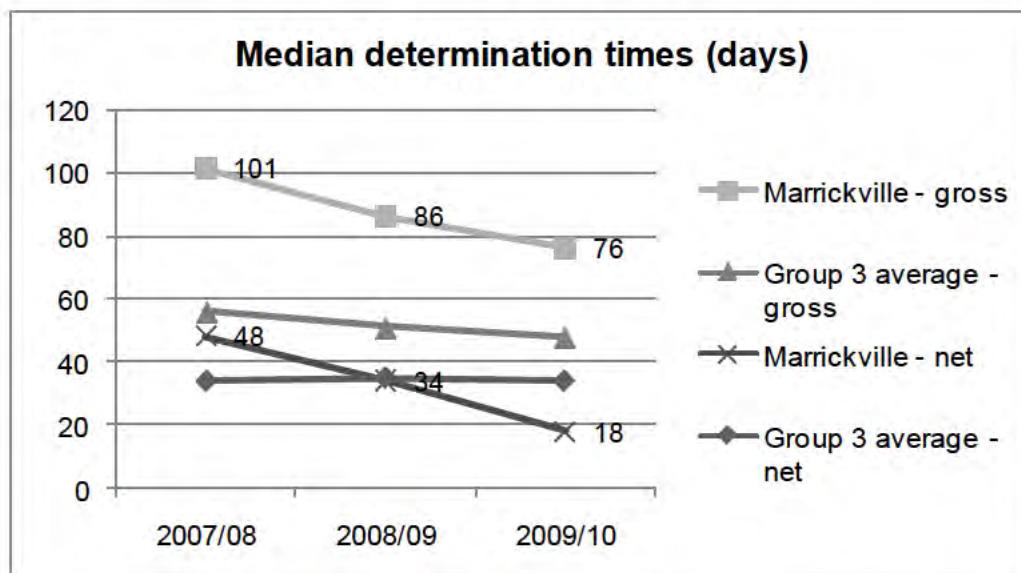


### Planning and development services

- The number of development applications determined decreased from 545 in 2008/09 to 513 in 2009/10, but the value of approvals almost tripled, from \$74 million in 2008/09 to \$205.8 million.
- Marrickville's gross mean determination time remained comparatively high, at 39.1% higher than the Group 3 average. However, its gross mean determination time improved by 11.1% against the previous year, from 108 days in 2008/09 to 96 days in 2009/10.
- Marrickville's net mean determination time was reduced from 56 to 33, an improvement of 41.1%, compared to the average improvement by Group 3 Councils of 11.5%.



- Marrickville's gross median time also improved between 2008/09 (86 days) and 2009/10 (76 days), an improvement of 11.6%. In comparison, the gross median time for Group 3 councils (48 days) represented a 5.9% improvement on 2008/09.
- Marrickville's net median approval time was also reduced, from 34 days in 2008/09 to 18 days in 2009/10 – an improvement of 47.1%, compared with an average decrease of 2.9% among Group 3 Councils over the same period.



### Legal appeals

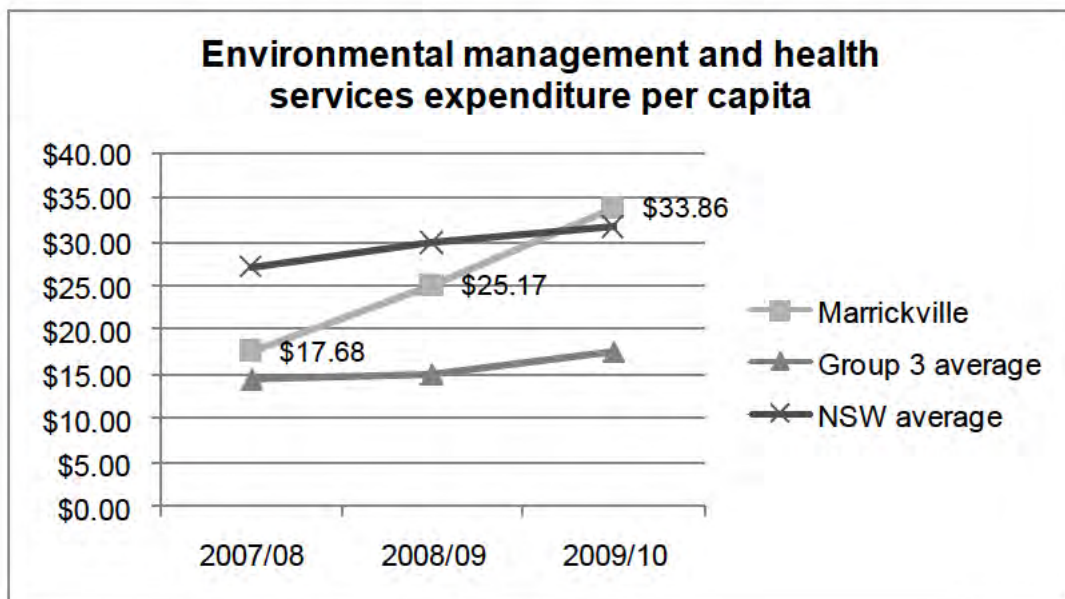
- Marrickville's record in legal appeals relating to planning and development is consistent with that of comparable councils and remains in line with its own performance in the previous years. In 2009/10, 4/8 or 50% of appeals against Marrickville were upheld, which is consistent with the Group 3 average of 3/7 (42.9%) and with Marrickville's 2008/09 figure (7/14 or 50%). The highest number of appeals for a local government area in 2009/10 was 36 at Ku-ring-gai, followed by 33 at Sydney City.



**Environmental management and health services**

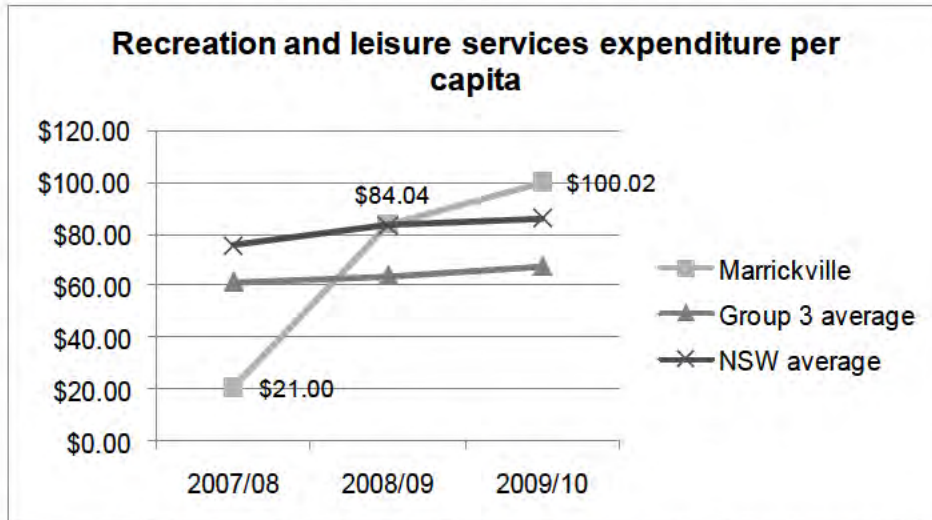
- The DLG figures on environmental management and health expenditure address the key council responsibilities of sustainable management of natural resources, the protection of the environment and the maintenance of public health. In 2009/10, Marrickville's per capita spending in this area increased by 34.5%, from \$25.17 per capita to \$33.86. This result is primarily a consequence of an amendment to the way Council was required to classify its expenditure in its Annual Financial Statements (Special Schedule 1), rather than a real increase in spending. In prior years, Special Schedule 1 did not reveal the full level of spending on the environment, as some environmental functions were previously classified as 'Housing and Community Amenities' expenditure. The amended classification has provided a more accurate indication of Marrickville's actual expenditure on environmental activities.

The result for 2009/10 continues to place Marrickville well above the Group 3 average (\$17.62) and Marrickville now exceeds the NSW average (\$31.65). This is due to Council's ongoing commitment to sustainability and that people in the Marrickville area have access by high quality and innovative programs and projects. This approach means a greater front-end investment in environmental protection and resource use so that other operating costs and the longer term costs of environmental restoration are reduced.



### Recreation and leisure services

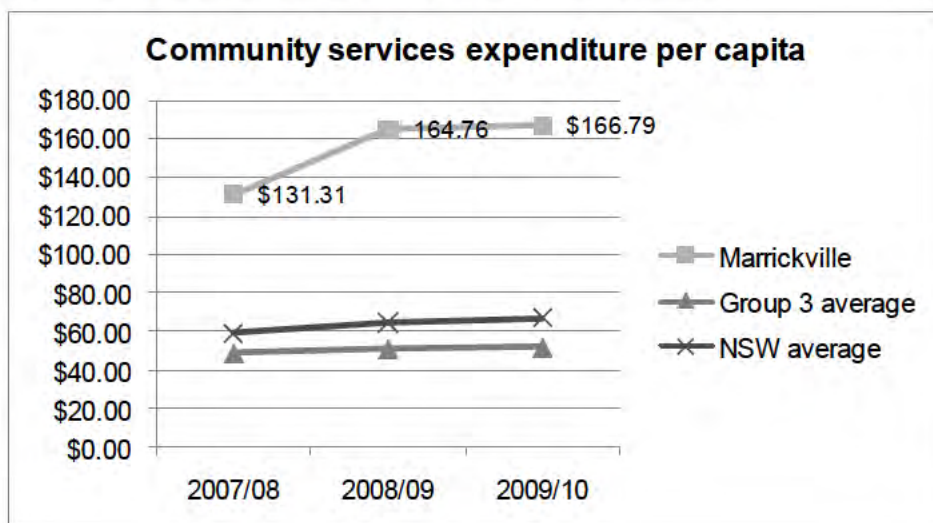
- In 2009/10, Marrickville significantly increased its per capita spending in this area by 19%, from \$84.04 per capita to \$100.02. This continues to place it well above the Group 3 average (\$67.38) and the NSW average (\$86.08).



*Please note:* The figure provided for Marrickville's expenditure on recreation and leisure services in 2007/08 did not reveal the full level of spending in this area, as it excluded spending on maintenance of parks and other recreational and leisure facilities.

### Community services

- At \$166.79 in 2009/10, Marrickville significantly exceeded the per capita expenditure for community services of the Group 3 (\$52.07) and the NSW (\$67.13) averages. Marrickville's per capita expenditure is higher than that of any other council in Group 1, 2 or 3. The differential in expenditure is due to Council's ongoing commitment to improve and sustain community wellbeing, as well as to ensure that low income and other disadvantaged people in the Marrickville area are assisted with high quality services and innovative community development projects. This approach means a greater front-end investment in prevention and community services activities, so that other longer term costs of social exclusion and disadvantage are reduced.
- Expenditure increased by 1.2% from 2009/10 levels, compared to an average Group 3 increase of 1.4% and a NSW average increase of 3.7%.





**CONCLUSION**

Marrickville continues to provide good value for money relative to other similar-sized urban councils. It continues to provide comparatively high rates of per capita expenditure across a range of service areas, while maintaining a low average residential rate.

**FINANCIAL IMPLICATIONS**

This report provides an historical snapshot of performance, and as such has no current financial implications. However, it provides broad comparative information that may be used to inform financial and operational planning and decision-making.

**OTHER STAFF COMMENTS**

The draft report was circulated to the Executive Management Team and comments have been incorporated.

**PUBLIC CONSULTATION**

Not applicable.

**RECOMMENDATION****THAT:**

1. the report be received and noted;
2. the comparative data be used to inform the maintenance of the Delivery Program, Operational Plan and Resourcing Strategy; and
3. the comparative data be used to inform service planning and provision.

Ken Gainger  
General Manager

**ATTACHMENTS**

1. Attachment 1 - Data tables on Marrickville's comparative performance 2009/10

Indicator	Marrickville 2009/10	Marrickville 2008/09	Marrickville 2007/08	Group 3 average 2009/10	Group 3 lowest 2009/10	Group 3 highest 2009/10	NSW average 2009/10
<b>Rating</b>							
Average rate per assessment – residential	\$715.31 (up 5.1%)	\$680.35 (up 4.5%)	\$650.94 (up 1.7%)	\$789.54	\$542.69 Auburn	\$992.44 Sutherland	\$785.90
Average rate per assessment – business	\$4,854.48 (up 1.3%)	\$4,791.32 (up 3.7%)	\$4,618.39 (up 3.4%)	\$4,793.18	\$2,430.89 Hurstville	\$9,045.69 Parramatta	\$4,151.00
Outstanding rates and annual charges	3.61% (down 4.2%)	3.77% (down 6.2%)	4.02% (up 4.4%)	4.10%	2.41% Auburn	5.63% Rockdale	5.31%
<b>Sources of income from continuing operations</b>							
Rates & Annual Charges	56.43% (down 0.7%)	56.85% (down 4.5%)	59.55% (down 2.9%)	57.28%	42.86% Blacktown	67.97% Bankstown	47.26%
User Charges & Fees	15.81% (up 10%)	14.37% (down 2.6%)	14.76% (up 1.6%)	11.28%	5.20% Bankstown	19.82% Warringah	16.78%
Interest	4.74% (down 6.7%)	5.08% (up 28.9%)	3.94% (up 16%)	3.58%	-0.65% Ryde	6.97% Auburn	4.18%
Grants	9.41% (down 28.8%)	13.21% (up 28.5%)	10.28% (down 6.8%)	11.39%	6.15% Warringah	18.33% Canterbury	16.70%
Contributions	5.91% (up 49.6%)	3.95% (down 0.3%)	3.96% (up 48.8%)	10.41%	1.14% Canterbury	28.90% Blacktown	9.46%
Other Revenue	7.69% (up 17.9%)	6.52% (down 13.4%)	7.53% (up 6.5%)	6.07%	2.86% Holroyd	9.48% Warringah	5.61%
<b>Dissection of expenses from continuing operations</b>							
Employee Costs	48.89% (down 0.5%)	49.15% (down 1.7%)	49.99% (down 4.1%)	44.95%	50.26% Sutherland	39.85% Canada Bay	39.39%
Materials & contracts	24.51% (down 17%)	29.52% (down 4.6%)	30.94% (up 10.9%)	23.01%	16.12% Sutherland	35.85% Warringah	26.62%
Borrowing costs	1.36%	1.48%	2.10%	0.71%	0.00%	2.60%	2.06%

Indicator	Marrickville 2009/10	Marrickville 2008/09	Marrickville 2007/08	Group 3 average 2009/10	Group 3 lowest 2009/10	Group 3 highest 2009/10	NSW average 2009/10
	(down 8.1%)	(down 29.5%)	(up 37.3%)		Blacktown, Hurstville, Randwick	Parramatta	
Depreciation	13.11% (up 0.6%)	13.03% (up 19.8%)	10.88% (down 1%)	15.58%	9.86% Ku-ring-gai	23.28% Ryde	19.93%
Other Expenses	12.13% (up 77.6%)	6.83% (up 12.3%)	6.08% (down 18.5%)	15.75%	10.53% Randwick	21.37% Blacktown	12.94%
<b>Corporate</b>							
Total continuing operations income per capita	\$985.47 (up 3.2%)	\$954.97 (down 26.5%)	\$1,300.10 (up 52.1%)	\$750.41 (up 2.4%)	\$594.93 Canterbury	\$985.47 Marrickville	\$1,042.77 (up 4.4%)
Total expenses from continuing operations	\$1,043.68 (up	\$1004.12 (up 9.4%)	\$917.43 (up 5.7%)	\$743.53 (down 0.4%)	\$598.43 Canterbury	\$1,043.68 Marrickville	\$1,055.82 (up 2.2%)
Current ratio (unrestricted)	3.69 (unchanged)	3.68 (down 1.6%)	3.74 (up 199.2%)	2.96	1.16 Canada Bay	6.71 Blacktown	2.71
Debt service ratio	4.36 (down 4.8%)	4.58 (down 53.9%)	9.94 (up 129%)	2.77	0.00 Blacktown, Hurstville, Randwick	7.32 Parramatta	4.99
Building and infrastructure renewal ratio	75.48	73.61	75.64	77.14	36.05 Rockdale	168.76 Warringah	84.41
Number of equivalent full time staff	509 (down 0.8%)	513 (up 5.3%)	487 (down .6%)	587.99	281 Auburn	1,376 Blacktown	293.34
<b>Library services</b>							
Expenditure/capita	\$59.72 (up 4.7%)	\$57.04 (down 3%)	\$58.82 (up 4.7%)	N/A	N/A	N/A	\$46.04
Loans	517,720 (down 1.8%)	527,400 (up 2.3%)	515,734 (down 10.1%)	N/A	N/A	N/A	510,968
Loans/capita	6.61	6.84	6.76	N/A	N/A	N/A	6.9

Indicator	Marrickville 2009/10	Marrickville 2008/09	Marrickville 2007/08	Group 3 average 2009/10	Group 3 lowest 2009/10	Group 3 highest 2009/10	NSW average 2009/10
	(down 3.4%)	(up 1.2%)	(down 9.8%)				
Visits	348,167 (down 8.7%)	381,447 (down 7.4%)	412,056 (up 9.3%)	N/A	N/A	N/A	389,567
<b>Planning and development services</b>							
No. of DAs determined	513 (down 5.9%)	545 (down 4.9%)	573 (up 4.9%)	969	374 Auburn	2,460 Blacktown	471
Total estimated value of DAs approved (millions)	\$205.8m (up 178.1%)	\$74m (down 47.5%)	\$141m (up 136.6%)	\$274m	\$99.1m Auburn	\$512.7m Warringah	\$103m
Gross mean determination time	96 (down 11.1%)	108 (down 21.2%)	137 (up 8.7%)	69	52 Warringah	103 Canterbury	59
Net mean determination time	33 (down 41.1%)	56 (down 31.7%)	82 (up 24.2%)	48	32 Randwick	76 Auburn	38
Gross median determination time	76 (down 11.6%)	86 (down 14.8%)	101 (up 1%)	48	26 Hurstville	76 Marrickville	37
Net median determination time	18 (down 47.1%)	34 (down 29.2%)	48	34	18 Marrickville	70 Auburn	27
<b>Legal appeals and legal costs</b>							
No. of appeals determined	8	14	10	7	0	36 Ku-ring-gai	N/A
No. of appeals upheld	4	7	5	3	0	13 Parramatta	N/A
<b>Environmental management and health services</b>							
Environmental management and health expenditure/capita	\$33.86 (up \$34.5%)	\$25.17 (up 42.36%)	\$17.68 (up 22.9%)	\$17.62 (up 16.3%)	\$7.32 Auburn	\$34.32 Randwick	\$31.65 (up 5.8%)
<b>Recreation and leisure services</b>							



Indicator	Marrickville 2009/10	Marrickville 2008/09	Marrickville 2007/08	Group 3 average 2009/10	Group 3 lowest 2009/10	Group 3 highest 2009/10	NSW average 2009/10
Recreation and leisure expenditure/capita	\$100.02 (up 19.0%)	\$84.04	\$21.00	\$67.38 (up 5.3%)	\$34.22 Canterbury	\$100.02 Marrickville	\$86.18 (up 3.2%)
<b>Community services</b>							
Community services expenditure/capita	\$166.79 (up 1.2%)	\$164.76 (up 25.5%)	\$131.31 (up 7.4%)	\$52.07 (up 1.4%)	\$9.19 Rockdale	\$166.79 Marrickville	\$67.13 (up 3.7%)

**Report No:** C1211(1) Item 9

**Subject:** COUNCIL INVESTMENTS AS AT 31 OCTOBER 2011

**File Ref:** 439/66229.11

**Prepared By:** Rob Peno - Coordinator Financial & Management Accounting

## SYNOPSIS

In accordance with the requirements of clause 212 of the Local Government (General) Regulation 2005, Council is provided with a listing of all investments made pursuant to section 625 of the Local Government Act 1993 and held as at 31 October 2011.

## RECOMMENDATION

### THAT :

1. the report indicating Council's Fund Management position be received and noted; and
2. Council approve the utilisation of Austraclear Limited as detailed in (ATTACHMENT 5).

## BACKGROUND

Clause 212 of the Local Government (General) Regulation 2005 requires that a report be presented to Council each month listing all investments with a certification from the Responsible Accounting Officer (Director Corporate Services). Attached to this report are further reports from Council's Investment Advisors, Oakvale Capital Limited (Oakvale).

## DISCUSSION

ATTACHMENT 1 AND ATTACHMENT 2 to this report summarise all investments held by Council and interest returns as at 31 October 2011.

Council is receiving actual interest payments as shown in the Notional Interest column at the rate indicated in the Average Weighted Interest (Avg Wgt Int) column. The column headed Net Income is the net of the Notional Interest and Capital Movements during the period. The return is the sum of the notional interest and capital movement reflected as an interest rate. Where there is a negative capital movement disclosed, the Return column percentage will generally be lower than the Average Weighted Interest (Avg Wgt Int) percentage being earned by the investment.

The Investment Holdings report (**ATTACHMENT 1**) for the period to 31 October 2011 reflects Council's holding in various investment categories listed in the table below:

MARKET VALUE 30 SEPTEMBER 2011	INVESTMENT TYPE	MARKET VALUE 31 OCTOBER 2011
\$2,887,423	Cash at Call	\$3,237,423
\$50,147,115	Term Deposit	\$47,239,974
\$5,759,393	Term Deposits – Periodic Interest	\$5,756,258
\$3,989,095	Floating Rate Notes	\$3,985,886
\$1,653,616	Mortgage Backed Securities	\$1,660,505
\$2,047,200	Corporate Bonds	\$2,001,840
<b>\$66,483,842</b>	<b>TOTAL</b>	<b>\$63,881,885</b>

The One-Month Portfolio Investment Return (5.13%) was above the UBSWA Bank Bill Index Benchmark (5.06%). The Year To Date Investments Return (6.32%) was well above the UBSWA Bank Bill Index Benchmark (5.01%).

For the month ending 31 October 2011, interest has accrued as per the table below:

YTD Budget	YTD Mark to Market	YTD Cash Basis
\$833,451	\$1,283,720	\$1,265,105

The mark to market capital adjustment as required by the accounting standards are due to the nature of the investment, and are unlikely to impact on the eventual return of capital and interest to Council. The Mark to Market is a likely outcome if Council were to consider recalling the investment prior to its due date.

A Monthly Economic and Investment Portfolio Commentary from Oakvale, is at **ATTACHMENT 3**.

A Report in relation to Legal Maturity, Call Date and Weighted Average Life in relation to the Mortgage Backed Securities (Emerald Reverse Mortgage Investments) and the Bank Issued Subordinated Debt (Bonds) (HSBC Aust Sub Debt) has been provided by Oakvale for Marrickville Council reference (**ATTACHMENT 4**).

Oakvale has supplied a proposal for Marrickville Council to become an Associate Member of Austraclear Limited with the benefits provided (**ATTACHMENT 5**). Oakvale has advised that there would be a one-off establishment cost of approximately \$2,000 and annual operating costs of approximately \$1,000. Council would benefit by being a Austraclear member in the following ways:

- Having a centralised safe custody account in Council's own name;
- Simultaneous exchange of "Real Time Gross Settlement" cash versus security;
- Cash is debited/credited automatically over Council's nominated bank accounts;
- On demand portfolio and cashflow reports;
- Automatic annual Portfolio issued at June month end; and
- On demand portfolio and cashflow reports.

Austraclear requires a Marrickville Council resolution to proceed with this proposal.

**Certificate by Responsible Accounting Officer:**

I hereby certify in accordance with Clause 212 (1) (b) of the Local Government (General) Regulation 2005 that the investments listed in **ATTACHMENT 1** have been made in accordance with section 625 of the Local Government Act 1993, the Regulation and Council's Investment Policy FS.9.

**ATTACHMENT 4** is to keep Marrickville Council informed on these particular investments held by Marrickville Council and in relation to **ATTACHMENT 5**, it is recommended that Marrickville Council approved the utilisation of Austraclear Limited.

**FINANCIAL IMPLICATIONS**

Nil with proposed Austraclear Limited fees to be covered within the bank fee adopted budget.

**OTHER STAFF COMMENTS**

Nil.

**PUBLIC CONSULTATION**

Nil.

**RECOMMENDATION****THAT:**

1. the report indicating Council's Fund Management position be received and noted; and
2. Council approve the utilisation of Austraclear Limited as detailed in **(ATTACHMENT 5)**.

Gary Mills  
Manager, Finance

**ATTACHMENTS**

1. Council's Holdings
2. Investment Graphs
3. Economic and Investment Portfolio Commentary
4. Oakvale Report On Legal Maturity, Call Date And Weighted Average Life
5. Oakvale Recommendation On Austraclear Limited



## COUNCIL'S HOLDINGS AS AT 31 OCTOBER 2011

Investment Type	Security Rating	End of Month Market Value	Percentage Holding	1 month			Fin. Year to Date			Return % p.a.	
				Notional Interest*	AvgWgt Int Rate	Capital Movement	Notional Interest	AvgWgt Int Rate	Capital Movement	Net Income#	
11AM CALL	A-1+	\$3,237,423	5%	\$10,721	4.75%	\$0	\$59,582	4.75%	\$0	\$59,582	4.75%
CBA - Cash Deposit Account **		\$3,237,423	5%	\$10,721		\$0	\$59,582	4.75%	\$0	\$59,582	4.75%
TERM DEPOSITS											
Matured TDs											
Bank of Western Australia matures 04-Oct-11	A-1+	\$0	0%	\$497	6.05%	\$35	\$185,524	6.05%	-\$23,090	\$162,434	6.05%
Suncorp Deposits and Transactions Products matures 11-Oct-11	A-1	\$0	0%	\$3,386	6.18%	-\$449	\$15,747	6.18%	-\$2,424	\$13,323	6.18%
Bank of Western Australia matures 18-Oct-11	A-1+	\$0	0%	\$5,589	6.00%	-\$760	\$34,540	6.00%	-\$5,902	\$28,638	6.00%
Bank of Western Australia matures 25-Oct-11	A-1+	\$0	0%	\$3,945	6.00%	-\$572	\$3,829	6.00%	-\$5,374	\$30,462	6.00%
Bank of Western Australia matures 01-Nov-11	A-1+	\$0	0%	\$3,814	6.05%	-\$481	\$19,068	6.00%	-\$2,861	\$16,208	6.00%
ING Bank (Australia) Limited matures 08-Nov-11	A-1+	\$2,029,903	3%	\$10,277	6.05%	-\$1,927	\$9,534	6.05%	-\$264	\$9,534	6.05%
Bank of Queensland matures 15-Nov-11	A-1	\$2,577,155	4%	\$13,525	6.37%	-\$2,855	\$30,167	6.05%	-\$10,399	\$43,266	6.37%
Bank of Western Australia matures 22-Nov-11	A-1+	\$2,039,083	3%	\$10,277	6.05%	-\$1,706	\$53,665	6.05%	-\$828	\$39,083	6.05%
National Australia Bank Ltd - Govt Business matures 06-Dec-11	A-1+	\$2,019,712	3%	\$9,767	5.75%	-\$1,371	\$18,904	5.75%	\$808	\$19,712	5.75%
Suncorp Deposits and Transactions Products matures 13-Dec-11	A-1+	\$4,041,879	6%	\$19,874	5.85%	-\$2,987	\$18,366	5.85%	\$895	\$11,725	5.85%
National Australia Bank Ltd - Govt Business matures 20-Dec-11	A-1+	\$3,076,867	5%	\$16,128	6.33%	-\$2,986	\$38,466	6.33%	-\$3,413	\$41,879	6.33%
National Australia Bank Ltd - Govt Business matures 20-Dec-11	A-1+	\$1,511,791	2%	\$5,797	5.85%	-\$2,574	\$10,830	5.90%	\$895	\$11,725	5.90%
National Australia Bank Ltd - Govt Business matures 20-Dec-11	A-1+	\$1,511,791	2%	\$7,453	5.85%	-\$944	\$62,679	6.20%	-\$10,367	\$52,430	6.20%
National Australia Bank Ltd - Govt Business matures 17-Jan-12	A-1+	\$4,591,637	7%	\$23,619	6.18%	\$3,007	\$62,679	6.20%	\$1,934	\$11,791	6.18%
National Australia Bank Ltd - Govt Business matures 24-Jan-12	A-1+	\$3,569,022	6%	\$18,519	5.23%	\$3,073	\$79,239	6.23%	\$12,074	\$69,022	6.23%
Westpac Banking Corporation - Local Govt matures 31-Jan-12	A-1+	\$5,582,408	9%	\$27,560	5.90%	-\$3,419	\$67,567	5.90%	\$14,841	\$82,408	5.90%
ING Bank (Australia) Limited matures 31-Jan-12	A-1	\$1,008,337	2%	\$5,121	6.03%	-\$744	\$5,287	6.03%	\$3,050	\$9,337	6.03%
Bank of Western Australia matures 10-Jan-12	A-1+	\$2,021,486	3%	\$9,937	5.85%	-\$1,080	\$17,630	5.85%	\$3,856	\$21,486	5.85%
Westpac Banking Corporation - Local Govt matures 07-Feb-12	A-1+	\$3,037,302	5%	\$14,905	5.85%	-\$1,889	\$28,849	5.85%	\$8,452	\$37,302	5.85%
Bank of Western Australia matures 14-Feb-12	A-1+	\$2,023,385	3%	\$10,192	6.00%	-\$1,611	\$16,438	6.00%	\$6,946	\$23,385	6.00%
ING Bank (Australia) Limited matures 21-Feb-12	A-1+	\$2,517,703	4%	\$8,936	5.93%	\$8,767	\$16,438	5.93%	\$8,767	\$17,703	5.93%
ING Bank (Australia) Limited matures 06-Mar-12	A-1+	\$1,509,367	2%	\$3,189	5.97%	\$6,177	\$3,189	5.97%	\$6,177	\$9,367	5.97%
Total Term Deposits		\$47,239,974	74%	\$247,321	6.03%	-\$20,627	\$912,349	6.07%	\$10,996	\$923,345	6.07%
TERM DEPOSITS (PERIODIC INTEREST)											
Bank of Queensland matures 14-Jun-13	BBB+	\$2,560,925	4%	\$14,370	7.05%	-\$1,940	\$57,018	7.05%	\$11,627	\$68,645	7.05%
Suncorp Deposits and Transactions Products matures 16-Aug-13	A+	\$3,193,333	5%	\$18,727	7.35%	\$21,293	\$74,305	7.35%	\$17,897	\$92,202	7.35%
Total Term Deposits (Periodic Interest)		\$5,756,258	9%	\$33,098	7.22%	-\$36,233	\$131,324	7.22%	\$29,524	\$160,847	7.22%
FLOATING RATE NOTES											
Matured FRNs											
Westpac Banking Corporation matures 24-Sep-12	AA	\$1,005,516	2%	\$4,398	5.40%	\$1,093	\$7,123	5.42%	\$1,161	\$9,284	5.42%
HSBC Bank Australia Subordinated Debt matures 15-Mar-13	AA	\$986,030	2%	\$6,002	7.14%	\$1,498	\$18,070	7.20%	-\$487	\$17,582	7.20%
National Australia Bank Limited matures 05-Nov-15	AA	\$1,994,340	3%	\$10,328	6.08%	\$4,788	\$24,137	6.11%	\$5,136	\$29,273	6.11%
Total Floating Rate Note		\$3,985,886	6%	\$20,728	6.21%	\$7,380	\$90,442	6.24%	-\$7,464	\$82,978	6.24%
MORTGAGE BACKED SECURITIES											
Emerald Reverse Mortgage Series 2006-1 Class A WAL 21-Aug-14	AAA	\$850,338	1%	\$4,212	5.24%	-\$2,414	\$17,062	5.26%	-\$7,146	\$9,916	5.26%
Emerald Reverse Mortgage Series 2006-1 Class B WAL 21-Aug-14	AA	\$1,167,157	1%	\$4,708	5.54%	\$383	\$18,963	5.56%	-\$10,591	\$8,372	5.56%
Total Mortgage Backed Securities		\$1,660,505	3%	\$8,920	5.39%	-\$2,031	\$36,025	5.51%	-\$17,737	\$18,288	5.51%
CORPORATE BOND SECURITIES											
National Australia Bank Limited matures 04-May-12	AA	\$2,001,840	3%	\$8,918	5.25%	-\$1,778	\$35,384	5.25%	\$3,296	\$38,680	5.25%
Total Corporate Bond Securities		\$2,001,840	3%	\$8,918	5.25%	-\$1,778	\$35,384	5.25%	\$3,296	\$38,680	5.25%
TOTAL INVESTMENTS (PORTFOLIO) ***		\$63,881,885	100%	\$329,705	6.11%	-\$53,289	\$1,265,105	6.14%	\$18,615	\$1,283,720	6.14%
BENCHMARK (UBSWA BANK BILL INDEX)											

\* Interest accrued for the month.

\*\* Interest rates can vary daily.

\*\*\* The notional interest for the cash plus funds includes both income and capital movement

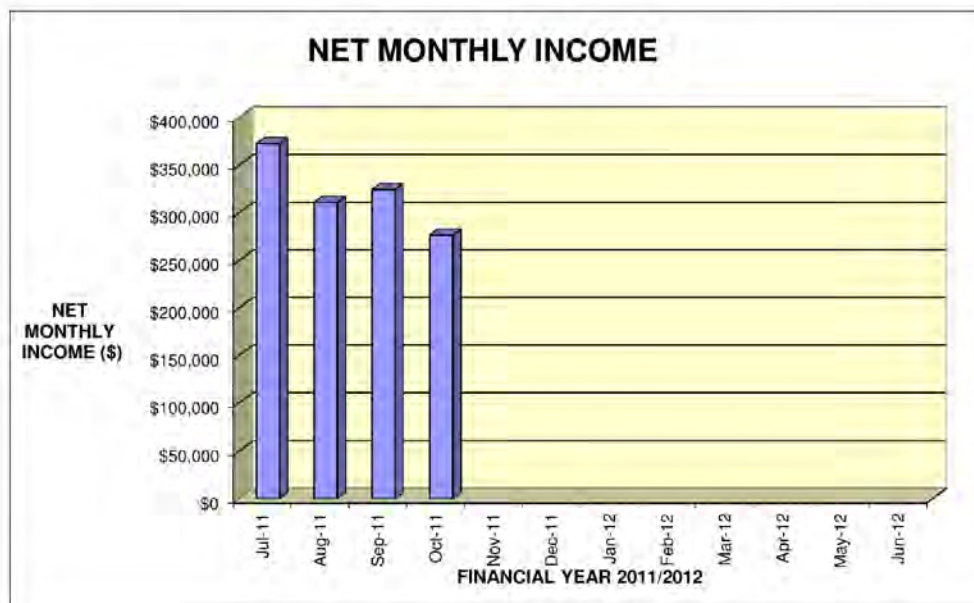
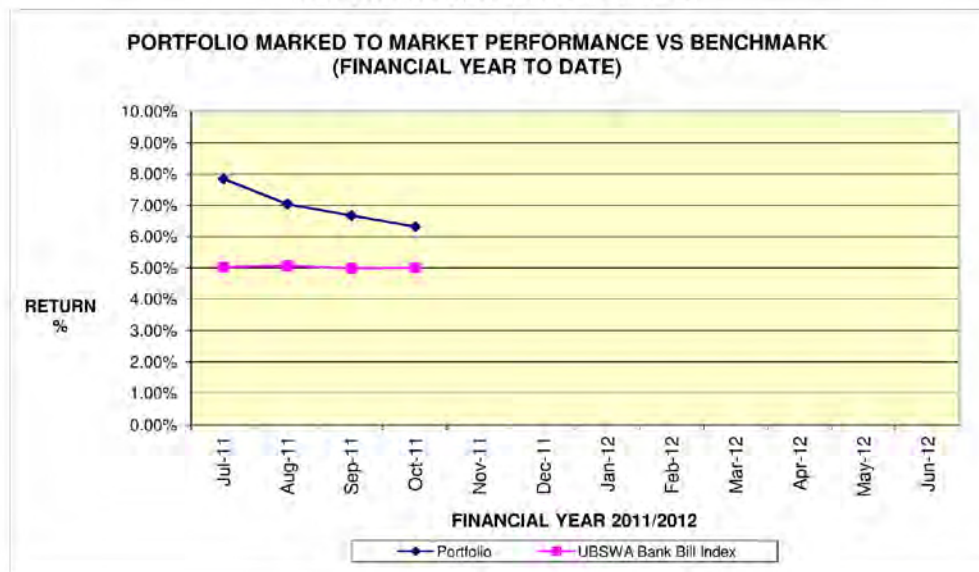
\*\*\*\* Annualised monthly and financial year to date returns are marked to market returns of the total portfolio.

# Net Income after adjusting for capital movements

&amp; - \$1 million covered by blanket Government Deposits Guarantee

**MARRICKVILLE COUNCIL INVESTMENT GRAPHS - 30 JUNE 2008**

**MARRICKVILLE COUNCIL MONTHLY GRAPHS**







## Marrickville Council Economic and Investment Portfolio Commentary October 2011

### Global issues:

- The European debt crisis continues to dominate financial market sentiment.
- European leaders agreed on a rescue package for Greece and a plan to protect against fiscal contagion to other nations. Their efforts were quickly deemed as inadequate if larger countries like Italy or Spain were to fail.
- The European Central Bank cut its official cash rate by 25 basis points to 1.25% as worsening economic data points to increasing risk of recession.
- Despite signs of modest US growth, e.g. unemployment rate dipped 0.1% to 9.0% in October and an additional 80,000 jobs created, Federal Reserve chairman Ben Bernanke warned of significant downside risks to the US economy, stating: "the pace of progress is likely to be frustratingly slow".

### Domestic issues:

- Australia's consumer confidence and business confidence figures increased modestly in October. Overall conditions remain weak but not as bad as those reported in August.
- Retail sales rose 0.4% in September, the third monthly gain.
- Australian employment rose by 20,000 in September and the unemployment rate fell by 0.1% to 5.2%.
- The AUD/USD hit a 12 month low during the month at US\$0.939, but rebounded strongly to end the month at US\$1.0752.

### Interest rates:

- The RBA cut the official cash rate by 25 basis points, to 4.50%, following its early November meeting, stating a moderate pace of global growth and domestic inflation anticipated to be consistent with the 2%-3% target in 2012-2013".

### Investment Portfolio Commentary

Council's investment portfolio returned a marked-to-market return of 5.13%pa for October vs the bank bill index return of 5.06%pa. For the Financial Year to Date, Council's return remains well above benchmark: 6.32%pa vs 5.01%pa.

Council's investments fully comply with legislation and policy guidelines. It is a well diversified portfolio which has taken advantage of the market opportunities that have risen in the wake of the GFC. The prevalence of ADI term deposits in the portfolio reflects the historically high margins that the Australian banks have been paying for deposits. These margins are beginning to narrow, but other compliant opportunities are available, especially for longer dated funds. These investment



options have been raised with Council and remain recommended if new holdings are available for longer dated periods.

**Disclaimer:** The statements and opinions contained in this report are based on currently prevailing conditions in financial markets and are so contained in good faith and in the belief that such statements and opinion are not false or misleading. In preparing this report, Oakvale Capital Limited has relied upon information which it believes to be reliable and accurate. Oakvale Capital Limited believes that this report and the opinions expressed in this report are accurate, but no warranty of accuracy or reliability is given. Oakvale Capital Limited does not warrant that its investigation has revealed all of the matters which a more extensive examination might disclose. This report may not be reproduced, transmitted, or made available either in part or in whole to any third party without the prior written consent of Oakvale Capital Limited. AFS Licence No. 229842.





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CAPITAL LIMITED

## Addendum to month end reports – October 2011

### Comments on Legal Maturity; Call Date; Weighted Average Life

Marrickville Council, as an institutional investor, has a diversified portfolio of wholesale investment alternatives. Along with more retail-focussed bank term deposits, Council has invested in a wide range of more professional investments over the past ten years, including:

- wholesale managed funds;
- bank bills;
- mortgage backed securities;
- bank issued subordinated debt (bonds);
- bank issued senior debt (bonds)

Each of these investment options has different characteristics, including their maturity details. Term deposits, bank bills and bank issued senior debt will often have clearly defined maturity dates when the principle invested is paid back to the investor. Other alternatives such as the wholesale managed funds don't have a maturity date, but investors redeem holdings as required at the prevailing unit price of the funds.

Other securities, such as mortgage backed securities and bank issued subordinated debt bonds which have been part of Council's long-term investment portfolio over many years, have different maturity conditions or structures than those mentioned above.

#### **Mortgage backed securities:**

Mortgage backed securities are typically comprised of 1000 – 2000 underlying loans which pay interest and capital to investors based on the underlying repayment of the pool of loans.

Mortgage backed securities utilise "Weighted Average Life" (WAL). This is an actuarial calculated estimate of when the critical volume of the underlying pool of loans will be paid off and at which point the investors' capital is fully repaid.

Mortgage backed securities have "Legal Maturity Dates" which is the maturity of the longest dated single underlying loan in the security pool.

Mortgage backed securities are priced and traded in the market based upon their WAL dates which are a more realistic estimate of the date that the investors in that particular security will receive their full capital back.

Council has invested in a number of mortgage backed securities over the years which have all matured on or near their WAL dates. Currently, Council has two mortgage backed securities in its investment portfolio:

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Telephone: 02 8823 6200 Facsimile: 02 9299 4841  
Email: info@oakvale.com www.oakvale.com

FINANCIAL RISK MANAGERS  
Oakvale Capital Limited  
ABN 72 009 070 884  
AFSL 229842



Security	Weighted Average Life (WAL) est actual maturity	Legal Maturity Date
Emerald Reverse Mortgage 2006 Class A	21 August 2014	21 August 2051
Emerald Reverse Mortgage 2006 Class B	21 August 2014	21 August 2056

These securities are comprised of entirely Australian based home loans with very low loan to value ratios. Australian mortgage backed securities are highly regarded in the market as sound investment alternatives given the historically strict lending practices of Australian banks. The credit rating on these securities have remained unchanged (Class A: 'AAA' and Class B: 'AA') since issuance, even throughout the global financial crisis.

These securities have been fully compliant investments under legislation and Council's Investment Policy since purchase. The weighted average life has been acknowledged within Council's policy as the recognised estimated maturity date for these types of securities and is utilised in the month end reports.

#### **Bank issued subordinated debt (bonds):**

Banks borrow funds through the institutional markets via bond issuances to finance their ongoing operations. There are a variety of bond issue alternatives the banks can use, but most common include the senior debt and the subordinated debt issuance.

Bank issued subordinated debt are often issued as 10 year securities which have an option after the first 5 years to be called back (matured) by the bank. There are often disincentives placed on the bank if they choose not to call back a subordinated debt issue upon the 5 year "Call Date", including a higher interest margin paid to the lenders (investors). If the security is not called on the 5 year Call Date, the bank has the option to call it back on a quarterly basis up to its final maturity, in a further 5 years.

There have been no subordinated debt issues from Australian banks which have not been called on their 5 year Call Dates. Over the years, Council has had several bank issued subordinated debt issues in its long term portfolio, which have all matured on their Call Dates. Currently there is one subordinated debt issue in Council's portfolio:

Security	Call Date	Legal Maturity
HSBC Aust Sub Debt	15 March 2013	15 March 2018

This security has been a fully compliant investment under legislation and Council's Investment Policy since purchase. The Call Date is utilised in the month end reports as it is a more likely maturity date than the legal maturity date of the security.



**Security Review and Monitoring:**

On a quarterly basis, Council's independent investment advisors provide a review of Council's entire portfolio, including summaries and updates of the securities listed above. These securities remain recommended as part of Council's long-term hold to maturity portfolio.



**Oakvale**  
CAPITAL LIMITED

21 November 2011

Mr Rob Peno  
Marrickville Council  
2-14 Fisher Street  
Petersham  
NSW

Dear Rob

Re Austraclear Membership

In line with the ongoing management of Council's investments and to ensure direct beneficial ownership of current security investments plus any new purchases, we suggest you consider applying to become an Associate Member of Austraclear Limited.

Austraclear Limited is fully owned by the Australian Securities Exchange and is the main Securities Depository for Australian Dollar denominated securities.

Council would benefit by being an Austraclear member in the following ways:

- Having a centralised safe custody account in Council's own name (your direct investment securities would no longer be held in safe custody at banks under another institution's account or sub custodians).
- Simultaneous exchange of "Real Time Gross Settlement" cash versus security. This eliminates any time gaps between payment and receipt of security.
- Cash (i.e. coupon payments; investments/deposits; maturity or sale proceeds) is debited/credited automatically over Council's nominated bank accounts.
- On-demand portfolio and cashflow reports.
- Automatic annual Portfolio issued at June month end
- On-demand portfolio and cashflow reports.

As an existing client of Oakvale's we will assist with the completion of the application. Also you may elect Oakvale to process the work on your behalf via the "Proxy" function within Austraclear.

Yours sincerely,

Jeannie Wickham  
Divisional Director Operations  
Oakvale Capital Limited

FINANCIAL RISK MANAGERS  
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**Item No:** C1211(1) Item 10

**Subject:** DUAL ROLES - COUNCILLORS AS MEMBERS OF PARLIAMENT IN NSW

**File Ref:** 952-01/67099.11

**Prepared By:** Brian Barrett - Director, Corporate Services

## SYNOPSIS

Report inviting a submission from Council on the dual roles of Councillors as Members of Parliament in NSW.

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## RECOMMENDATION

**THAT Council determines:**

1. **whether to respond to the Discussion Paper on Dual Roles as Councillors and as Members of Parliament in NSW; and**
  2. **the terms in which the response should be made.**
- 

## BACKGROUND

The Division of Local Government has issued a discussion paper on the dual roles of Councillors as Members of Parliament in NSW and seeks submissions from Council, Councillors and members of the public. The deadline for submission is 31 January 2012.

## DISCUSSION

The Discussion Paper outlines the respective roles of a Councillor/Mayor and a Member of Parliament.

It makes the following key points:

1. NSW State Parliamentarians are precluded from concurrently being a Member of either House of Parliament. Similarly, Federal Parliamentarians cannot concurrently be members of the NSW Parliament.
2. Dual roles as Councillors and Members of Parliament are prohibited in Victoria, Queensland, Western Australia and South Australia. No such prohibition exists in Tasmania, the Northern Territory, NSW or New Zealand.

It provides the case both for and against allowing Councillors to be Members of Parliament. These are included in the paper and are self-explanatory.

The Paper also notes that there is no conflict of interest under the Model Code of Conduct in holding both roles and confirms that the role of Councillor is not 'an office of profit under the Crown' and is not a barrier to being a member of the NSW Parliament on this ground. It also presents some commentary on the argument that forcing Councillors to resign when they become Members of Parliament would result in more local by-elections.

**CONCLUSION**

The report invites input from Council but as the closing date for input is 31 January 2012, the matter needs to be dealt with in the December meeting cycle.

**FINANCIAL IMPLICATIONS**

Not applicable.

**OTHER STAFF COMMENTS**

Nil.

**PUBLIC CONSULTATION**

Nil.

**RECOMMENDATION**

**THAT Council determines:**

1. whether to respond to the Discussion Paper on Dual Roles as Councillors and as Members of Parliament in NSW; and
2. the terms in which the response should be made.

Brian Barrett  
Director, Corporate Services

**ATTACHMENTS**

1. DLG Discussion Paper - Dual Roles Councillors as Members of Parliament in NSW



Division of Local Government  
Department of Premier and Cabinet

## **Dual Roles: Councillors as Members of Parliament in NSW**



November 2011  
Discussion Paper

**1. WHAT IS THE PURPOSE OF THIS DISCUSSION PAPER?**

Across NSW, there are a large number of councillors who are concurrently serving Members of Parliament. Concerns have been expressed by various groups in the community about this 'dual role'.

Following the March 2011 State elections, there were 29 councillors from 24 councils in NSW who were also elected to the NSW Parliament. Of those 29 councillors, 11 were Mayors and 2 were Deputy Mayors.

The Premier, the Hon Barry O'Farrell MP, has requested that the Minister for Local Government, the Hon Don Page MP, investigate this issue. The purpose of this paper is to seek the views of the general public and interested stakeholders as to whether councillors should also be able to be Members of Parliament at the same time.

**2. WHAT ARE THE ROLES OF A COUNCILLOR / MAYOR AND A MEMBER OF PARLIAMENT?***2.1. Councillors and Mayors*

Councillors are elected by their local community to perform two key roles – as a member of the council and as an elected person. A councillor's role as a member of the governing body includes directing a council's affairs; allocating resources for the benefit of the local area; developing policies and reviewing the council's performance in relation to delivering services and other matters.<sup>1</sup> As an elected person a councillor's role is to represent the interests of residents and ratepayers; provide leadership and guidance to the community; and facilitate communication between the community and council.<sup>2</sup>

In addition to having responsibilities as a councillor, the role of the Mayor is to exercise urgent policy-making functions of the governing body of the council

<sup>1</sup> *Local Government Act 1993* (NSW) s232.

<sup>2</sup> *Local Government Act 1993* (NSW) s232.



between meetings of the council, exercise such other functions of the council as the council determines, preside at meetings of the council, and carry out the civic and ceremonial functions of the mayoral office.<sup>3</sup> Given these additional roles, the Mayor will spend more time undertaking their duties than a councillor.

Councils must have at least 10 ordinary meetings in a 12 month period in different months. These meetings are usually chaired by the Mayor. A council must have a quorum in order to conduct a meeting. The quorum must be one more than half the number of councillors. In order to fulfil their role councillors should attend as many council meetings as possible. If a councillor is absent from three consecutive ordinary meetings of the council without leave of the council having been granted then the councillor automatically vacates the office.<sup>4</sup> Leave can only be granted by a council prior to the meeting or at the meeting concerned.

## *2.2. Members of Parliament*

As the New South Wales Parliament has two Houses, the Legislative Assembly and the Legislative Council, Members of Parliament may sit in either house.

Members of the Legislative Assembly work locally for the people in the area that they represent, and are elected for four years using optional preferential voting from separate electorates within the State. Members of the Legislative Council are elected for eight years under a system of proportional representation from a single electorate encompassing the whole State of New South Wales.<sup>5</sup> However, they are assigned a region to represent.

The role of Members of Parliament includes attending Parliamentary sittings, making representations on issues affecting the local area they represent, consulting on issues under review by Committees or before voting on Bills (legislation).

<sup>3</sup> *Local Government Act 1993* (NSW) s226.

<sup>4</sup> *Local Government Act 1993* (NSW) s234(1)(d).

<sup>5</sup> See Parliament of New South Wales, *The Role of the Council*,  
<http://www.parliament.nsw.gov.au/prod/web/common.nsf/key/TheRoleoftheCouncil>

The party room is where the Members of a political party meet regularly to discuss and vote on policies and plan strategy. Members often have a responsibility and loyalty to their party. Some Members also have special responsibilities such as being a Minister or Shadow (Opposition) Minister of a portfolio (eg: the environment), or have special responsibilities within their party.<sup>6</sup> These special responsibilities can include being a member or Chair of a Parliamentary Committee, or being a Parliamentary Secretary. Some Members of Parliament are elected as Independent candidates and this means that they are not affiliated with any particular political party.<sup>7</sup>

Parliament generally sits in two sessions – the Budget Session (which can be from February to early July), and the Spring Session (which can be from September to December). In sitting weeks, Parliament sits for three days, sometimes four days, depending on the sitting.<sup>8</sup>

### 3. WHAT IS THE LEGAL FRAMEWORK?

#### 3.1. *Three Tiers of Government*

There are three tiers or levels of government in Australia – Federal, State/Territory, and Local. Each tier of government has its own responsibilities and makes decisions through different decision-making bodies.

At the Federal level, the *Australian Constitution* establishes the Federal Parliament as the 'federal law-making body', consisting of the House of Representatives and the Senate.<sup>9</sup> There are 150 elected representatives in the House of Representatives and in the Senate there are 76 Senators comprising 12 Senators representing each State and two Senators representing each

<sup>6</sup> See Parliament of New South Wales, *The Role of a Local Member*,  
<http://www.parliament.nsw.gov.au/prod/parlment/publications.nsf/key/FactSheetNo33>

<sup>7</sup> See Parliament of New South Wales, *The Role of a Local Member*,  
<http://www.parliament.nsw.gov.au/prod/parlment/publications.nsf/key/FactSheetNo33>

<sup>8</sup> See Parliament of New South Wales, *How Parliament Works*,  
<http://www.parliament.nsw.gov.au/prod/web/common.nsf/key/resourcessystemHowParliamentWorks>

<sup>9</sup> [http://www.aec.gov.au/About\\_AEC/Publications/Fact\\_Sheets/files/3-levels.pdf](http://www.aec.gov.au/About_AEC/Publications/Fact_Sheets/files/3-levels.pdf)

Territory.<sup>10</sup> Each State of the Commonwealth and the powers of State Parliaments are preserved by Chapter V of the *Australian Constitution*.<sup>11</sup>

At the NSW State level, the *Constitution Act 1902* (NSW) establishes the State Parliament as the 'State law-making body', consisting of the Legislative Council and the Legislative Assembly.<sup>12</sup> There are 93 members of the Legislative Assembly and 42 members of the Legislative Council.<sup>13</sup> These members are referred to as 'Members of Parliament' in this discussion paper. The *Constitution Act 1902* (NSW) expressly provides for a system of local government.<sup>14</sup>

At the NSW local level, the *Local Government Act 1993* (NSW) establishes councils as local decision-making bodies. Representatives on council are known as councillors.<sup>15</sup> Generally, a council must have at least five and not more than 15 councillors (one of whom is the mayor).<sup>16</sup>

The *Commonwealth Electoral Act 1918* (Cth) provides that a person who is a member of the Parliament of a State is not capable of being nominated as a Senator or as a Member of the House of Representatives.<sup>17</sup>

Further, the *Parliamentary Electorates and Elections Act 1912* (NSW) provides that a Member of the Parliament of the Commonwealth shall be incapable of being nominated as a candidate for, or elected as a member of, the Legislative Assembly or the Legislative Council respectively.<sup>18</sup> The *Constitution Act 1902* (NSW) additionally provides that 'a Member of either House of Parliament shall not be capable of being elected or of sitting or voting as a Member of the other House'.<sup>19</sup> This means that a member of the NSW Legislative Council may not

<sup>10</sup> [http://www.aec.gov.au/About\\_AEC/Publications/Fact\\_Sheets/files/3-levels.pdf](http://www.aec.gov.au/About_AEC/Publications/Fact_Sheets/files/3-levels.pdf)

<sup>11</sup> *Commonwealth of Australia Constitution Act 1901* (Cth) s106, s107.

<sup>12</sup> *Constitution Act 1902* (NSW) s25, s17.

<sup>13</sup> *Constitution Act 1902* (NSW) s25, s17.

<sup>14</sup> *Constitution Act 1902* (NSW) s51.

<sup>15</sup> *Local Government Act 1993* (NSW) s222.

<sup>16</sup> *Local Government Act 1993* (NSW) s224.

<sup>17</sup> *Commonwealth Electoral Act 1918* (Cth) s164.

<sup>18</sup> *Parliamentary Electorates and Elections Act 1912* (NSW) s79(7), s81E.

<sup>19</sup> *Constitution Act 1902* (NSW) s13C.

also be a member of the NSW Legislative Assembly and vice versa. The treatment of councillors as Members of Parliament is examined below.

### 3.2. Councillors

The *Local Government Act 1993* (the Act) regulates who may be elected to civic office in NSW as far as councils are concerned. The Act allows any person to hold civic office provided that they are entitled to be enrolled as an elector<sup>20</sup> and are not disqualified under the Act.<sup>21</sup>

This means that a candidate must be at least 18 years of age and an Australian citizen (or a British subject on an Australian roll on 25 January 1984). The candidate must also be a resident or ratepayer of the council's area or an occupier of rateable land in the area and be on the roll of electors for the area. The Act defines a resident.

The Act disqualifies a number of persons from holding civic office, including judges, those serving a sentence for a serious indictable offence, those convicted of certain offences, those subject to an undischarged surcharge, those who are disqualified from managing a corporation under the *Corporations Act 2001*, and employees of the council concerned.<sup>22</sup> The returning officer for elections of the council concerned is also excluded.

Members of Parliament are not precluded from holding civic office as councillors in NSW under the Act.

### 3.3. Members of Parliament

Every person enrolled to vote in any electoral district is qualified to be a candidate for any seat in the Legislative Assembly or Legislative Council unless otherwise disqualified. A person is disqualified from being a member of the Assembly or of the Council if he or she:

<sup>20</sup> *Local Government Act 1993* (NSW) s274.

<sup>21</sup> *Local Government Act 1993* (NSW) s275.

<sup>22</sup> *Local Government Act 1993* (NSW) s275.



- is a member of the other House,<sup>23</sup>
- holds or benefits from a contract with the public service, with certain exceptions,<sup>24</sup>
- holds an office of profit under the Crown or has a pension from the Crown,<sup>25</sup> or
- is a member of the Commonwealth Parliament.<sup>26</sup>

#### 4. WHAT HAPPENS IN OTHER JURISDICTIONS?

The concurrent performance of both roles as a councillor and as a Member of State and/or Federal Parliament is prohibited in Victoria under the *Local Government Act 1989*,<sup>27</sup> Queensland under the *Local Government Act 2009*,<sup>28</sup> Western Australia under the *Local Government Act 1995*,<sup>29</sup> and in South Australia under the *Local Government (Elections) Act 1999*.<sup>30</sup>

The concurrent performance of both roles as a councillor and as a Member of State and/or Federal Parliament is not prohibited in Tasmania<sup>31</sup> or in the Northern Territory. This is also the case for New Zealand, where there is no prohibition in the *Local Electoral Act 2001* or the *Electoral Act 1993* upon a person holding office as a Member of the New Zealand Parliament and holding office as a councillor of a territorial authority (local council) at the same time.

<sup>23</sup> *Constitution Act 1902* (NSW) s13C.

<sup>24</sup> *Constitution Act 1902* (NSW) s13.

<sup>25</sup> *Constitution Act 1902* (NSW) s13B.

<sup>26</sup> *Parliamentary Electorates and Elections Act 1912* (NSW) s79(7), s81E.

<sup>27</sup> *Local Government Act 1989* (VIC) s28A.

<sup>28</sup> *Local Government Act 2009* (Qld) s155.

<sup>29</sup> *Local Government Act 1995* (WA) s2.20.

<sup>30</sup> *Local Government (Elections) Act 1999* (SA) s17.

<sup>31</sup> As at 31 October 2011, a Bill amending the *Constitution Act 1934* (Tas) was before the House of Assembly. The Bill is for an Act to amend the Constitution to make it unlawful to sit in either House of the Parliament of Tasmania while elected as a representative on any local council, and to make provision for the Bill to be ratified at a state referendum prior to proclamation.

## 5. WHAT ARE THE ARGUMENTS AGAINST ALLOWING COUNCILLORS TO BE MEMBERS OF PARLIAMENT?

The main arguments against allowing a dual role are presented as a series of propositions below, and include:

### ☞ It's a conflict of duties

There is a potential conflict of duties between a person's role as councillor and their role as a Member of Parliament. For example:

- There could be a conflict when a council wants to express a view about a State issue when a councillor is a Member of Parliament;
- A person may be influenced in the performance of their role as a councillor by their obligations owed to another level of government or political considerations arising from their service in Parliament.

### ☞ It's not easy to know who to complain to

Where a council is the subject of a complaint by a ratepayer to their local Member of Parliament who also happens to be a councillor in that council, can the ratepayer reasonably expect their complaint to be attended to without an appearance of bias? This is particularly where the complaint is about a decision made by the council that was supported by that Member.

### ☞ It's not practical for one person

The roles of a councillor and Member of Parliament are both demanding roles. It is not practical for a person to effectively perform both roles, and give equal time and effort. As a result, ratepayers and taxpayers should not have to pay for councillors and Members of Parliament who are not fully concentrating on their responsibilities. There will also be times where councillors will need to choose between attending Parliament (or leaving early); or attending a council meeting, committee meeting or workshop. This may be even more of an issue where there is more than one councillor from a council who is also a Member of Parliament (refer to section 2 of this paper).

➤ It's not equitable

Councillors who are not Members of Parliament are not able to raise issues directly in Parliament or with Ministers with whom they do not have regular contact.

➤ It blurs responsibilities

While there are policies and processes in place to prevent the blurring of responsibilities (for example, codes of conduct), there is potential for perceptions about inappropriate use of one position for the purposes of another. For example, staff employed by a council to assist councillors with the performance of their duties may be perceived as carrying out some duties for the councillor in their role as a Member of Parliament.

**6. WHAT ARE THE ARGUMENTS FOR ALLOWING COUNCILLORS TO BE MEMBERS OF PARLIAMENT?**

The main arguments for a dual role are presented as a series of propositions below, and include:

➤ It's democracy 'in action'

Successful candidates are democratically elected by the community to best represent the wishes of that community. Voters and councillors should be trusted to decide whether it is right for a councillor to stand for office in another tier of government. If the community is dissatisfied, then they may express that view when voting at the next election.

➤ It's ensuring the best person for the job

The skills, knowledge and experience gained by councillors assist them to perform their role as a Member of Parliament. This includes skills and experience gained from representing the interests of constituents, and a broader understanding of issues that are important to a local community as local government is the tier of government closest to the people.

➤ It increases local advocacy

Councillors are able to be a more effective advocate for their communities at the state level due to being able to raise issues directly in Parliament and with Ministers with whom they are likely to have regular contact.

➤ It's efficient

Given that the issues dealt with may be similar, the work day of a councillor with a dual role is more efficient and effective. Performing a dual role can minimise duplication.

➤ It's common for Members of Parliament to have other roles

Many Members of Parliament have roles in addition to being a member. For instance, there is no general restriction on Members of Parliament engaging in other employment, such as legally qualified Members continuing to practice their profession, Members owning and operating family farms, undertaking paid employment, or engaging in various charitable activities. Members of Parliament also hold other official positions, including as Ministers of the Crown.

## 7. ARE THERE ANY OTHER CONSIDERATIONS?

➤ It's a conflict of interest under the Model Code of Conduct

Serving concurrently as a councillor and a Member of Parliament has been said to give rise to a conflict of interests. This is not the case in the sense that 'conflict of interests' is used in the Model Code of Conduct for Local Councils in NSW ("the Model Code"). Clause 7.1 of the Model Code defines a conflict of interests as follows: "A conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty". Given that the interests associated with the exercise of the role of a Member of Parliament could not properly be characterised as being "private" in nature, any conflict that the concurrent performance of both roles gives rise to will not on its own constitute a conflict of interests for the purposes of the Model Code.



➤ It's holding an office of profit

Holding an office of profit under the Crown has been described by some commentators as a limitation on a dual role. This view states that the NSW Constitution is a barrier to a councillor sitting and voting as a Member of Parliament as they are holding an "office of profit under the Crown". However, NSW Legislative Council Practice, co-authored by the Clerk of Parliaments, states that:

Local government councillors do not hold offices of profit under the Crown and are capable of being elected as members while continuing to hold the position of councillor. This is because councillors are elected to civic office under the *Local Government Act 1993* and are accountable to the people who elect them, and not the executive government.<sup>32</sup>

➤ It will result in more by-elections

An argument often given is if councillors also serving as Members of Parliament are forced to resign from their role as councillor, this will increase the cost to ratepayers due to the need to hold a council by-election. This argument has largely been addressed following the passing of the *Local Government Amendment (Elections) Act 2011*. This Act provides that if a casual vacancy in a civic office occurs within the last 18 months of a four-year term, a council may resolve to apply to the Minister for approval not to conduct the by-election but to allow the casual vacancy to be filled at the next ordinary election.

If agreed that a councillor should not be allowed to be a Member of Parliament at the same time, one option could be that councillors be allowed to complete their current term but not be allowed to re-stand for election as a councillor. Therefore, no forced resignations would result. This is consistent with the approach taken in Victoria.<sup>33</sup>

<sup>32</sup> Lynn Lovelock and John Evans, *New South Wales Legislative Council Practice*, (The Federation Press, 2008) 150. The decision of *Sydney City Council v Reid* (1993) 34 NSWLR 506 at 521 per Meagher JA is cited as authority.

<sup>33</sup> *Local Government Act 1989 (VIC)* s28B.

## 8. WE WOULD LIKE TO KNOW YOUR VIEWS

We are seeking your responses to the following question:

Should mayors and councillors who are also Members of Parliament be eligible to stand for local government elections?

We request that submissions are made in writing using the attached feedback form. Should you wish to make additional comments please provide these on additional pages. Your submission can be lodged in the following ways:

By post: Dual Roles Discussion Paper  
Division of Local Government  
Locked Bag 3015  
NOWRA NSW 2541

By email: [dlg@dlg.nsw.gov.au](mailto:dlg@dlg.nsw.gov.au)

By fax: 02 4428 4199

The closing date for submissions is 31 January 2012.

All submissions may be made publicly available. If you do not want your personal details or any part of the submission released, please indicate this clearly in your submission together with reasons. You should be aware, however, that even if you state that you do not wish certain information to be published, there may be circumstances in which the Government is required by law to release that information (for example, in accordance with the requirements of the *Government Information (Public Access) Act 2009*).

Once we have analysed submissions, we will provide the findings to the Government for consideration.



**Premier & Cabinet**  
Division of Local Government

## Dual Roles: Councillors as Members of Parliament in NSW Submission Form

Name: \_\_\_\_\_

Organisation (if applicable): \_\_\_\_\_

Postal Address: \_\_\_\_\_

Closing date: 31 January 2012

### Question

Should mayors and councillors who are also Members of Parliament be eligible to stand for local government elections? (please tick one box only)

They should be eligible ☐

They should not be eligible ☐

Unsure if they should be eligible ☐

Please write down your reasons

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

**Thank you for taking the time to provide this feedback. Details on the ways you may submit this form and the use of this information are provided on page 11 of the Discussion Paper.**

**Report No: C1211(1) Item 11**

**Subject: NOTICE OF MOTION: DRAFT MARRICKVILLE DEVELOPMENT CONTROL 2011**

**File Ref: 952-01/65792.11**

**From Councillor Dimitrios Thanos**

**MOTION:**

**THAT:**

- 1. Controls 12 and 13 in Section 5.1.3.3 Massing and setbacks of draft Marrickville Development Control 2011 be amended as follows:**

*Rear massing*

**C12** Where the rear boundary adjoins a lane:

- i. The rear building envelope must be contained within the combination of the rear boundary plane and a 45 degree sloping plane from a point 7.5 metres vertically above the lane ground level, measured at the rear boundary, and contain a maximum of two storeys on the rear most building plane;
- i. notwithstanding point i., building envelopes may exceed the above building envelope control where it can be demonstrated that any rear massing that penetrates above the envelope control will not cause significant visual bulk or amenity impacts on neighbouring properties to the rear.

**C13** Where the rear boundary is a common boundary between properties:

- i. The rear building envelope must be contained within the combination of the rear boundary plane and a 45 degree sloping plane from a point 5 metres vertically above the ground level of the property being developed, measured at the rear boundary, and contain a maximum of one storey on the rear most building plane;
- ii. notwithstanding point i., building envelopes may exceed the above building envelope control where it can be demonstrated that any rear massing that penetrates above the envelope control will not cause significant visual bulk or amenity impacts on neighbouring properties to the rear.

- 2. That Figure 8 in Section 5.1.3.3 Massing and setbacks of draft Marrickville Development Control 2011 be amended to be consistent with the amended wording proposed in Motion 1.**

- 3. That Objective O9 in Section 5.1.3.3 Massing and setbacks of draft Marrickville Development Control 2011 be amended to be consistent with the amended wording proposed in Motion 1 as follows:**

**O9** To ensure the rear massing of developments does not cause significant visual bulk or amenity impacts on neighbouring properties to the rear.



4. That the precinct-specific diagrams in Sections 9.36, 9.38 and 9.40 be amended to be consistent with the amended wording proposed in Motion 1, deleting the 6m minimum control adjacent to the lane.

### **Background**

Controls 12 and 13 in Section 5.1.3.3 Massing and setbacks of draft Marrickville Development Control 2011 as exhibited are as follows:

#### *Rear massing*

- C12 Building envelopes:
- iii. As a minimum, must be contained within a 45 degree sloping plane from a line 7.5m vertically above the intersection of the lane or adjoining rear property level and the rear boundary; and
  - iv. Generally must be setback a minimum 6m from the rear boundary.
- C13 Building envelopes may be built within 6m of the rear boundary only where:
- v. It relates to car parking, loading or service areas;
  - vi. The change in ground levels allows the street fronting commercial level to sit above the car parking/loading/service areas at the rear lane level; or
  - vii. The building envelope:
    - a. Contains commercial or residential at the rear where the site circumstances and design allows the relevant controls to be complied with;
    - b. Contains a maximum two storeys on the rear most building line; and
    - c. Enhances the quality of any laneway by improving the visual quality of the lanescape and improving safety from activation and surveillance.

These controls have been drafted to achieve the following for the rear massing of commercial and mixed use developments:

When backing onto an adjoining property:

- a minimum 6m setback from the rear boundary is achieved consistent with the building separation control for habitable rooms or balconies; and
- any structures containing residential or commercial floor space as they rise in storeys is further setback so they do not cause significant bulk impacts on adjoining, commonly residential, properties.

When backing onto a rear lane:

- a minimum 6m deep area is provided for parking, loading and service areas (ie where this is an open area); and
- any structures containing parking, loading, service areas, and/or residential or commercial floor space as they rise in storeys is further setback so they do not cause significant bulk impacts on adjoining, commonly residential, properties.

Concern is raised that these controls are unclear and will unduly restrict development at the rear of commercial properties where a larger rear mass that penetrates the envelope control may not cause any amenity impacts on adjoining properties. The following motion rewords these controls to address this concern.

### **Manager, Planning Services Reports**

The Notice of Motion proposes amendments to Controls 12 and 13 in Section 5.1.3.3 Massing and setbacks and other consequential amendments to controls, objectives and diagrams within draft Marrickville Development Control 2011 (dMDCP).

The proposed amendments do not alter the type of development outcomes that can occur under the planning controls. Instead they provide specific information as to where variations allowing building envelopes to penetrate outside the building envelope control can occur (where it can be demonstrated that these will not cause significant visual bulk or amenity impacts on neighbouring properties to the rear may be considered and under what circumstances) whereas the existing controls remain silent on these matters on the basis that variations would be evaluated at the development application stage.

The proposed amendments are supported by Council officers as they do not detract from the urban design controls for the commercial centres established under the Village Centres Study.

As the proposed amendments do not alter the intent or application of dMDCP they do not need to be publicly exhibited. Subject to the gazettal date of the MLEP, as the MDCP will come into effect with the MLEP, the proposed amendments may either be able to be incorporated into the current dMDCP or if the MLEP is gazetted prior to this Notice of Motion, they will be added through Amendment No.1.

### **Resource Implications:**

Nil.

### **ATTACHMENTS**

Nil.

**Report No:** C1211(1) Item 12  
**Subject:** NOTICE OF MOTION: LOUISA LAWSON RESERVE  
**File Ref:** 952-01/65518.11

**From Councillor Emanuel Tsardoulis**

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**MOTION:**

**THAT Council installs a shelter area of the park which consists of three tables and seats to allow seniors and other community groups to use and be completed in this budget. Budget can be drawn from the \$45k allocation of switch box which can't be delivered from allocated budget.**

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**Background**

Louisa Lawson Reserve was named after Louisa Lawson who was an Australian writer, publisher, suffragist, and feminist. She was the mother of the poet and author Henry Lawson.

The reserve currently is being used by a diverse part of our community. Recently I was approached by several local senior residents who requested for me to assist in getting a covered area with seating at the reserve as the seniors often use the Louisa Lawson Reserve as a seniors meeting network spot and engage themselves in senior activities.

With warmer weather and the heat waves over the current season, it would make it difficult for seniors to go to the reserve during the day without any form of shelter.

**Director, Infrastructure Services**

Three super advanced deciduous shade trees have recently been planted near the playground.

A large picnic shelter with two picnic tables and seats, and with minor additional embellishments would cost approximately \$50,000. A smaller shelter with a single table would cost up to about \$30,000.

A decision is required as to the appropriate scope of the project and therefore the likely cost. It is preferable for the project to be considered and prioritised as part of the 2012/13 Budget process.

Council allocated \$40,000 in the 2011/2012 Capital Budget to investigate partition switching for sports field lighting systems. Further investigations are required to determine if modifications can be made to wiring and control systems to allow partial operation of the sports field lighting systems and whether this would meet current Australian Standards. Until that review is completed, the partial switching budget allocation should be retained.

**Resource Implications:**

A preliminary estimate of cost for three picnic tables with seats under picnic shelters ranges between \$70,000 and \$80,000 depending on the scope of works.

**ATTACHMENTS**

Nil.

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**Report No:** C1211(1) Item 13

**Subject:** NOTICE OF MOTION: JACK SHANAHAN RESERVE

**File Ref:** 952-01/65519.11

**From Councillor Emanuel Tsardoulis**

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**MOTION:**

**THAT Council staff prepare a report to investigate the costing of an upgrade of the reserve which includes access to the lightrail proposal and greenway gardens along the border of the fence of the tracks, resurfacing of tennis courts, basketball courts and furniture upgrade, toilets and graffiti murals for the 2012 budget.**

---

**Background**

Council allocated \$60,000 in the 2011/2012 Capital Budget to repair and resurface the basketball court at Jack Shanahan Reserve.

**Manager, Infrastructure Planning Reports**

Preparation and planning of upgrading works at Jack Shanahan Reserve will involve consultation with a range of interested parties to clarify light rail infrastructure and access through the park, greenway and biodiversity planting opportunities, recreation demand and park asset renewal and embellishment requirements.

It is preferable for the project to be considered and prioritised as part of the Budget process, with design development in one year and construction in the following year. Should Council concur, then officers can prepare a capital bid in this format for consideration in the 2012/2013 Budget process.

**Resource Implications:**

Preparation of a detailed report and costings for proposed capital improvements at Jack Shanahan Reserve will require significant effort and has not been undertaken as existing programs are the current priority.

**ATTACHMENTS**

Nil.



**Report No:** C1211(1) Item 14

**Subject:** NOTICE OF MOTION: REFURBISHMENT OF KINTORE STREET POCKET PARK

**File Ref:** 952-01/65509.11

**From Councillor Emanuel Tsardoulis**

**MOTION:**

**THAT:**

1. Council completes a refurbishment of Kintore St Pocket Park; and
2. Council consults with Dulwich Hill Public School and Kintore St residents in establishing a pocket community garden in the Kintore St Pocket Park.

**Background**

Funds could be used from the \$45k allocation of light switch box for parks which at the moment can't be achieved with current allocated budget.

**Director, Infrastructure Services and Director, Community Services Report**

Establishment of a pocket garden will likely involve additional capital expenditure by Council. It is not possible to quantify this without better scoping of the project, which will require a community engagement process. However a number of options are possible:

1. preliminary budget estimate for a low cost makeover by Council of the Kintore Street road closure including 3 new seats, planting 4 advanced trees with tree guards, replacement of the path on the western side and restoration of disturbed areas is \$20,000, subject to detailed investigation and design.
2. a lower cost option, with 2 seats smaller trees and delete the path replacement could also be considered.
3. if the school wishes to participate in the tree planting and look after them then the cost of work could be further reduced to \$7,500.

Council should note that the above costs are subject to detailed site investigation and design. A decision is required as to the appropriate scope of the project and therefore the likely cost. It is preferable for the project to be considered and prioritised as part of the 2012/13 Budget process which enables for design staff resources to be appropriately planned.

A well established community garden currently exists within the Dulwich Hil Public School grounds, facing Kintore Street. The Acting Community Sustainability Coordinator advises that it would be more sustainable and cost effective to introduce Kintore Street residents to the school community and facilitate their participation in the school's community garden. The school is currently seeking volunteers to assist with the garden, particularly over the summer school holiday period. Should further demand for community garden space be required, the Kintore Street road closure could be explored in the future. This would involve a community engagement process to scope the project and to allow the garden project costs to be developed.

Council allocated \$40,000 in the 2011/2012 Capital Budget to investigate partition switching for sports field lighting systems. Further investigations are required to determine if modifications can be made to wiring and control systems to allow partial operation of the sports field lighting systems and whether this would meet current Australian Standards. Until that review is completed, the partial switching budget allocation should be retained.

**Resource Implications:**

A preliminary estimate of cost for refurbishment of Kintore St road closure ranges between \$7,500 and \$20,000 depending on the scope of works.

Development of a community garden requires resourcing of a community engagement process to scope the project and allow garden project costs to be developed.

**ATTACHMENTS**

Nil.

**Report No:** C1211(1) Item 15  
**Subject:** QUESTIONS ON NOTICE: GARBAGE COLLECTION CREWS  
**File Ref:** 4056-03/65795.11

**From Councillor Dimitrios Thanos**

# MARRICKVILLE COUNCIL CODE OF MEETING PRACTICE - JUNE 2010

## Questions may be put to Councillors and Council Employees

- 28 (1) **[Questions by a Councillor]** A Councillor:
- (a) may, through the chairperson, put a question to another Councillor; and
  - (b) may, through the General Manager, put a question to a Council employee. [Regulation – clause 249]
- (2) **[Reasonable notice]** However, a Councillor or Council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents. [Regulation – clause 249]
- (3) **[Question to be put directly and without argument]** The Councillor must put every such question directly, succinctly and without argument. [Regulation – clause 249]
- (4) **[Discussion not permitted]** The chairperson must not permit discussion on any reply or refusal to reply to a question put to a Councillor or Council employee under this clause. [Regulation - clause 249]
- (5) **[Questions on notice]** *A Councillor may ask a Question on Notice of the General Manager or a Director in relation to matters other than those included on the Business Paper of the Council or relevant Committee. The Question on Notice may be lodged at any time and put to the next available appropriate meeting. Where a Councillor requires further information in relation to the answer provided, it is to be sought after the meeting.* [Policy]

## Questions

I am asking formally for a response to the following questions on the public record.

Relating to the Garbage Collection Crews:

1. When they went on strike how long did they go on strike for?
2. How much notice did they give to Council that they were going to go on strike?
3. What were the reasons they gave for the strike?
4. What are Senior staff's responses to those reasons?
5. Did the matter go to arbitration?

Item 15

6. If so what were the findings of the arbiter?
7. Were the rulings/findings of the arbiter followed through with?
8. When the garbage crews were on strike did Council hire contractors to do their job?
9. Whilst we had the contractors hired were the Council Garbage Crews being Paid?
10. If so how much were they paid whilst not working?
11. What did the contractors cost us as a comparison to the same job carried out by our garbage crews?
12. Was there any difference in the service for the period of time the garbage crews were on strike? If so what were those differences?
13. In terms of numbers, how many crews and people did the contractors use over that period of time and how many people do we employ to do the same job?
14. What does the average garbage collection worker earn in wages for normal hours, are they full time or casual and what does their pay convert to with overtime and how much overtime do they get (if any)?
15. Do the Garbage Collection workers work a standard 8 hour day? Do they work more than 8 hours or less than 8 hours per day (on average)?
16. When a Garbage Collection worker finishes early, do they get paid for 8 hours of work or for the Hours worked?
17. How often do the Garbage Collection workers finish early (on average)?
18. What award are the garbage collection crews on? When was this award formalized?
19. Can a copy of their award please be tabled for public knowledge?

Any further information that may be relevant to the above raised issues and comment by senior staff are welcome.

### **Answers**

**1. When they went on strike how long did they go on strike for?**

Resource Recovery staff and a number of other outdoors staff went on strike for 1 day on 7 July 2011.

**2. How much notice did they give to Council that they were going to go on strike?**

No notice was given. Staff met and then left the workplace.

**3. What were the reasons they gave for the strike?**

The United Services Union claimed that neither the Union nor the employees were appropriately notified or consulted about the decision to tender the green waste collection service and that, as a result, it considered that Council had breached Clause 35 of the Award which provides for workplace change and redundancy and Clause 36 which provides for competitive tendering. Clause 36 deals with inhouse bids where staff are affected by competitive tendering.



#### 4. What are Senior Staff's responses to those reasons?

Council's greenwaste collections are an important and growing service, assisting Marrickville meet its waste reduction targets. Council decided to tender for a greenwaste service provider only after Council's Resource Recovery staff had given 10 days notice in May that they would no longer pick up any greenwaste.

The majority of greenwaste was and is collected by agency staff. Permanent staff informed Council in 2009 that they would not pick up the bulk of the greenwaste. With Council staff then refusing in May 2011 to collect any greenwaste at all, Council sought an economical and efficient way to provide the service. Staff later offered to pick up less than half of the amount of greenwaste they had collected for 4 years. This was not a viable situation and the offer was declined.

The USU has also previously suggested that Recycling staff could pick up the small proportion of greenwaste instead of garbage collection staff. However, this would have added around \$70,000 to the cost of collection – a wage increase of around 18% for Recycling staff with no increase in productivity for Council. This was declined as not being affordable.

Following the ban by garbage collection workers on greenwaste collections, Council gave the staff notice of the decision to go to tender despite the fact that no jobs would be lost. Given that no staff were picking up any greenwaste and no jobs would be lost, the focus was on getting the best available service at the best price.

Following industrial action Council has not proceeded with a tender. However, savings of \$70,000 a year have been made as garbage staff are no longer collecting greenwaste on weekends on overtime. All greenwaste is collected during the week. Additional savings of \$60,000 a year have also been achieved as Council has entered into an arrangement with a different agency to provide casual staff to pick up greenwaste.

In regard to Clause 35 (Workplace Change and Redundancy) it was considered that as the USU members had declined to collect the same amount, or at one stage any, greenwaste that tendering for provider for greenwaste collection was not a workplace change that affected them. No staff were being made redundant. In regard to Clause 36 dealing with competitive tendering, the clause deals with councils providing support to an inhouse bid where staff would be affected by a competitive tender. However, Council has undertaken to comply with Clause 36 even though no jobs would be affected. However, there are no plans to proceed to a tender.

#### 5. Did the matter go to arbitration?

No. The matter was heard in the NSW Industrial Commission as a conciliation matter on 7 July 2011.

#### 6. If so what were the findings of the arbiter?

There was no arbitrated outcome. Council offered to withdraw the advertisement seeking tender proposals and undertook to provide 2 weeks' notice if a tender was to be pursued. Council has not proceeded with a tender and continues to use agency staff for the bulk of greenwaste collections. With the assistance of the Commissioner, staff resumed picking up an average of 122 bins of greenwaste a day. The bulk of greenwaste continues to be picked up by agency staff.

The USU recently made a submission to the Commission in an attempt to have a ruling that Council should employ permanent staff in greenwaste. The Commission held that Council was not breaching the Award.

**7. Were the rulings/findings of the arbiter followed through with?**

See above.

**8. When the garbage crews were on strike did Council hire contractors to do their job?**

No, contractors were not engaged. Council routinely uses agency staff for greenwaste and to ensure garbage and recycling services are not disrupted by staff absences on annual and sick leave. In order to ensure that the essential services of Resource Recovery continued, Council engaged casual staff through an arrangement with an agency that provides operational staff to Council. Other services were not staffed for the day as they did not present a public health risk.

**9. Whilst we had the contractors hired were the Council Garbage Crews being Paid?**

No wages were paid to any Council staff who went on strike.

**10. If so how much were they paid whilst not working?**

Industrial legislation prohibits employers from paying staff on strike.

**11. What did the contractors cost us as a comparison to the same job carried out by our garbage crews?**

The 30 agency staff working under supervision of Council cost \$7,554 for the day. The cost was approximately \$1,895 less than the cost of Council staff including overheads such as superannuation, workers compensation, sick leave and annual leave coverage. This calculation takes into account that waste employees take in excess of 18 days sick leave per year. This is an average across all waste employees and is in excess of the 15 days sick leave provided for in the Agreement. Workers compensation is also a cost that is calculated as an overhead. Waste Services accounts for only around 8.5% of the Council workforce but one third of the workers compensation premium of more than \$1 million is attributable to this section. This section is currently responsible for more than 86% of claims costs in 2010-2011.

**12. Was there any difference in the service for the period of time the garbage crews were on strike? If so what were those differences?**

There was a small increase in missed services on the day as some agency casual staff were unfamiliar with the runs. In some cases the runs were completed in less time than normal. Missed services were collected the next day.

**13. In terms of numbers, how many crews and people did the contractors use over that period of time and how many people do we employ to do the same job?**

Thirty agency casual staff were used, the same number of staff as Council usually uses.

**14. What does the average garbage collection worker earn in wages for normal hours, are they full time or casual and what does their pay convert to with overtime and how much overtime do they get (if any)?**

All permanent staff are employed fulltime in this work area. Garbage drivers are paid \$1,123.92 a week (\$58,668.62 a year) once they have full competencies. Loaders are paid \$1,044.80 a week (\$54,538.56 a year).

Overtime is no longer worked as a result of a decision to collect all greenwaste during the week. Workers previously earned an average of \$3000 a year in overtime.

**15. Do the Garbage Collection workers work a standard 8 hour day? Do they work more than 8 hours or less than 8 hours per day (on average)?**

Garbage staff work on average 104.5 hours a month which equates to an average of 5.23 hours a day as they have one rostered paid day off a month. They are paid for 8.0 hours a day. Recycling staff work an average of 4.5 hours a day as they work 90 hours a month with 2 rostered paid days off a month. When no greenwaste was collected during the industrial ban, garbage staff worked an average of half an hour less per day.

Garbage collection staff are paid triple time for public holidays. This is a condition agreed to by former Council management and does not appear in the Agreement.

**16. When a Garbage Collection worker finishes early, do they get paid for 8 hours of work or for the Hours worked?**

Staff on 'job and finish' are paid for a full day regardless of what time they finish.

**17. How often do the Garbage Collection workers finish early (on average)?**

Council records show that workers in this area invariably finish well before the time to which they are paid. That is, the average is 5.23 hours a day when adjusted for the one rostered day off per month.

Loaders are dropped off at the depot when the truck is on its last trip to the tip, resulting in loaders working approximated 30 to 40 minutes less per day than drivers.

**18. What award are the garbage collection crews on? When was this award formalized?**

Garbage or waste staff work under the conditions of the Waste Service Agreement No.2 Enterprise Bargaining Agreement signed in 2003. The Agreement has expired but continues until notice is given to quit or it is replaced with a new agreement. Council had attempted this year to achieve agreement with the garbage employees that a new agreement should include productivity increases but they have stated that 'job and finish' and the number of bins collected per day are not negotiable.

Recycling staff are employed under the NSW Local Government (State) Award 2010 but work under a local arrangement of 'job and finish'. Council attempted to negotiate a Recyclers Agreement but was not successful despite two and half years of discussions.

**19. Can a copy of their award please be tabled for public knowledge?**

Copies of these will be circulated to Councillors with the business paper.

**ATTACHMENTS**

Nil.