

## **8.19. Streets as Shared Spaces Grant Funding - Round 2 - East Crescent Street Park**

**AUTHOR:** Matthew Noonan, Engineering Projects Manager

**ENDORSED BY:** Duncan Mitchell, Director Engineering and Property Services

### **ATTACHMENTS:**

1. Streets as Shared Spaces - Funding Agreement with State Govt [8.19.1 - 43 pages]

### **PURPOSE:**

The purpose of this report is to update Council on the Round 2 – “*Streets as Shared Spaces*” Program – Grant Application that Council has received funding for.

### **EXECUTIVE SUMMARY:**

On 2 May 2022, the Minister for Infrastructure, Cities and Active Transport announced that North Sydney Council had been successful with its funding application for Round 2 of the “*Street as Shared Spaces*” Program. Council had applied for funding for the creation of a small pocket park at East Crescent Street, McMahons Point which has been identified as one of the priority projects in the McMahons Point - Blues Point Road Village Centre Master Plan, which was adopted by Council in April 2021.

The Funding that Council has received is for a “Trial Pocket Park” in this location, with the view to making it a permanent pocket park.

Council has been previously successful with the Round 1 “*Streets as Shared Spaces*” program – receiving over \$1million in funding from that program for the trial closure of Burton Street, Kirribilli as a public plaza, the Miller Street “Pop up” Space located opposite the Victoria Station Metro site on Miller Street and a “*Street Play*” Pilot Program which encompassed the temporary closure of streets to vehicles to allow ‘opening to people’ to use the road space as open/community space. Council ran that program from October – December 2020, which involved the temporary closure of seven (7) streets across the LGA for “*Street Play*” activities.

### **FINANCIAL IMPLICATIONS:**

This report identifies that Council has been successful with its Grant Funding Application through the NSW State Governments “*Streets as Shared Spaces*” Program” – Round 2. Council must contribute \$250,000 towards the creation of the pocket park which will be matched dollar for dollar by the *Streets and Shared Spaces* – Round 2 program. Councils funding contribution is currently funded in the McMahons Point Master Plan budget for 2021-22 and

the funds will be required to be rolled over to the 2022-23 Financial Year as the project will be undertaken over two financial years.

**RECOMMENDATION:**

**1. THAT** Council notes this report on the Round 2 *“Street as Shared Spaces”* Program funding that has been received by Council for the creation of a *“Trial Pocket Park”* in East Crescent Street – McMahons Point.

**2. THAT** Council notes that Community Consultation, a Traffic Study and Human Movement (Human Analytics Study) will be undertaken as part of the trial pocket park and reported back to Council in 9 months’ time.

## LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

1. Our Living Environment
  - 1.3 Quality urban greenspaces
  - 1.4 Public open space and recreation facilities and services meet community needs
2. Our Built Infrastructure
  - 2.1 Infrastructure and assets meet community needs
  - 2.2 Vibrant centres, public domain, villages and streetscapes
  - 2.4 Improved traffic and parking management
3. Our Future Planning
  - 3.1 Prosperous and vibrant economy
  - 3.4 North Sydney is distinctive with a sense of place and quality design
4. Our Social Vitality
  - 4.1 North Sydney is connected, inclusive, healthy and safe

## BACKGROUND

North Sydney Council applied for and received grant funding through the “*Streets as Shared Spaces*” Program – Round 2 after it had successfully been through an Expression of Interest Process (EOI) in December 2021. The EOI that Councils Engineering and Property Services Department prepared was reviewed and shortlisted by an independent assessment panel of NSW Government representatives from the department, Transport for NSW and the Office of Local Government.

Council’s EOI application was assessed against the following key criteria set out by the “*Streets and Shared Spaces*” Program.

- How will the project improve walkable access and connection for people in the high street and surrounding area?
- How will the project improve people's ability to play and participate?
- How will the project improve people's ability to stay comfortably?
- How will the project improve how people connect with each other?
- What is the significance of the location to the community

After the successful assessment of the EOI, Council was requested to submit a formal grant application on 11 February 2022. The application was reviewed by the same panel against the Assessment Criteria outlined previously.

Council in its original EOI and subsequent application requested funding for a second project, “King George Street Entry (civil works, planting)” which was also identified as a priority project in the McMahons Point - Blues Point Road Village Centre Master Plan. \$250,000 was requested for this project.

The “King George Street Entry (civil works, planting)” project was not funded by the Streets and Shared Spaces Program – Round 2.

Council identified in its funding application that the construction of a trial "Pocket Park" at the intersection of East Crescent Street and Blues Point Road as part of the McMahons Point - Blues Point Road Village Centre Master Plan would achieve the following key Public Domain objectives:

- A more vibrant streetscape,
- More opportunities for outdoor seating and dining.
- Improved pedestrian connectivity.
- More passive public Open Space in the densely built-up village of McMahons Point.

### **Temporary to Permanent Design Elements**

The temporary pocket park design will incorporate features that can be easily turned into permanent features if the community supports the project and Council resolves to make the pocket park a permanent installation.

For example, a number of the large planter pots from the Young Street Trial Plaza in Neutral Bay will be used in this “Trial” Pocket Park. The mature plants (trees and shrubs) from these pots can be planted permanently in the park if it’s to become a permanent public space in the future. The lighting and streetscape furniture elements can also be incorporated into the permanent design as can the paving.

### **Streets Alive Program**

During the detailed documentation phase Tract Consultants (The Project’s Landscape Architects engaged by Council) were approached by local residents expressing their interest to be part of a “*Streets Alive*” group to maintain the pocket park when completed.

Council’s “*Streets Alive*” Coordinator has agreed to establish a program for the ‘Pocket Park’ as it will further promote community interaction with the park providing community-based gardening opportunities for those members of the community who don't have a garden of their own. It is anticipated that this level of local “*grassroots*” community involvement will encourage participation in gardening as a recreational activity and create a sense of local ownership of the ‘Pocket Park’ once completed. Tract Consultants have also undertaken consultation with the interested “*Streets Alive*” members for the selection of shrub and tree species which will be incorporated into the final design.

## **CONSULTATION REQUIREMENTS**

Community consultation on the creation of a pocket park in this location was undertaken in July 2020 – refer to the detail section of this report. Council will again consult with the community during the trial pocket park period. Council will also undertake a Traffic Study and

Human Movement (Human Analytics Study) to compare data before, during and after the trial period.

## DETAIL

Council, at its meeting on 23 July 2020, endorsed the public exhibition of the Draft Masterplan for McMahons Point - Blues Point Road Village Centre Public Domain Upgrade for 60 days. Community consultation was undertaken between September and November 2020 in line with the Community Engagement Strategy developed for this project.

Council received a total of 115 submissions, comprising 35 written submissions and 80 online submissions. The majority (58%) of submissions received by Council supported the proposal as exhibited.

This was reported up to Council at its meeting on 26 April 2021. The weblinks are below.

[https://www.northsydney.nsw.gov.au/Council\\_Meetings/Meetings/Council\\_Meetings/Council\\_Reports\\_26\\_Apr\\_2021](https://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/Council_Meetings/Council_Reports_26_Apr_2021)

[Council 3743 26 April 2021 - 10.5. Masterplan for the Public Domain upgrade of McMahons Point Blues Point Road Village Centre Post Community Consultation%20\(2\).pdf](#)

Note: The final Master Plan that Council resolved on at the 26 April, 2021 meeting was different from the initial Master Plan exhibited in September to November 2020. Changes were made to the Master Plan that Council resolved on to reduce impacts on parking as a result of the feedback received from the community.

Council at the 26 April Meeting resolved:

1. *THAT Council note the submissions received.*
2. *THAT the final McMahons Point - Blues Point Road Village Centre Public Domain Upgrade Masterplan, including the amendments made as a result of the feedback received during the community consultation period, be adopted.*

One of the key projects in the adopted Master Plan for the *McMahons Point - Blues Point Road Village Centre* is the creation of a small "Pocket Park" at the intersection of East Crescent Street and Blues Point Road. The consultants who prepared the Master Plan on behalf of Council (TRACT) suggested that a small pocket park in this location would bring benefit to the community through introducing some key pedestrian and traffic calming initiatives. These included the following:

- Continuous footpath treatment across East Crescent Street at Blues Point Road.
- Retaining the one-way ingress into East Crescent Street.

- Construction of new permanent and temporary soft landscaping elements, including trees, shrubs, ground covers and turf.
- New lighting, paving and streetscape furniture elements
- Improved crossing point from Blues Point Hotel
- Potential “Public Art” sculpture to be determined in conjunction with the community.
- Overhead wires and cable relocated underground – subject to funding.

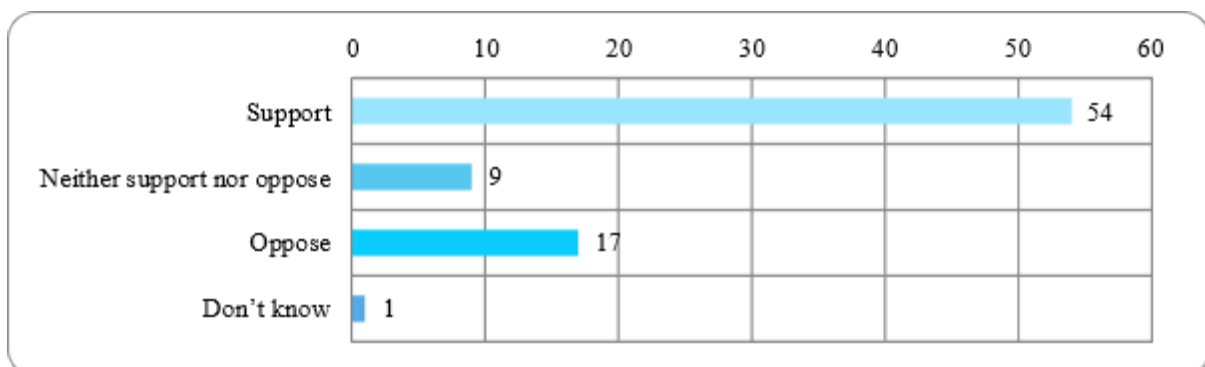
**Note:** The creation of the East Crescent Street Pocket Park will remove only two parallel parking spaces from each side of the street. These spaces are proposed to be relocated to the western side of Blues Point Road between Mil Mil Street and Princes Street.

As part of the community consultation that Council undertook – it specifically asked a question about whether the Community wanted a pocket park in this location. See extract below from the April 2021 Council report. The pocket Park received strong support from the Community (66.7%). The project also ranked highly in the prioritisation of projects from the Master Plan that the community wanted implemented – the project ranked 2<sup>nd</sup> – see extract below.

**Question 4 - (OPTIONAL) Do you support the proposed upgrade works at Zone 3 - East Crescent Street Pocket Park?**

The following graph shows the level of support for the proposed works in Zone 3 - East Crescent Street Pocket Park. The majority of respondents support the upgrade of Zone 3 – East Crescent Street – Pocket Park.

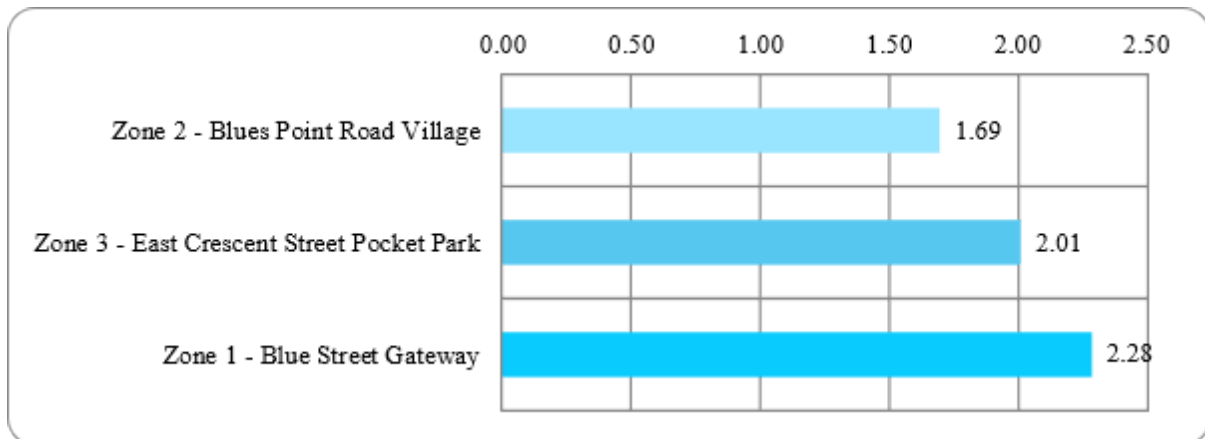
1. Yes - 66.7% (54 responses)
2. Neither support nor oppose - 11.1% (9 responses)
3. Oppose - 21% (17 responses)
4. Don't know - 1.2% (1 response)



**Figure 4 – Question 4 Survey Responses Graph**

**Question 5 - (OPTIONAL) To assist project prioritisation, please rank the following projects in order of preference where 1 is your favourite and 6 is your least favourite.**

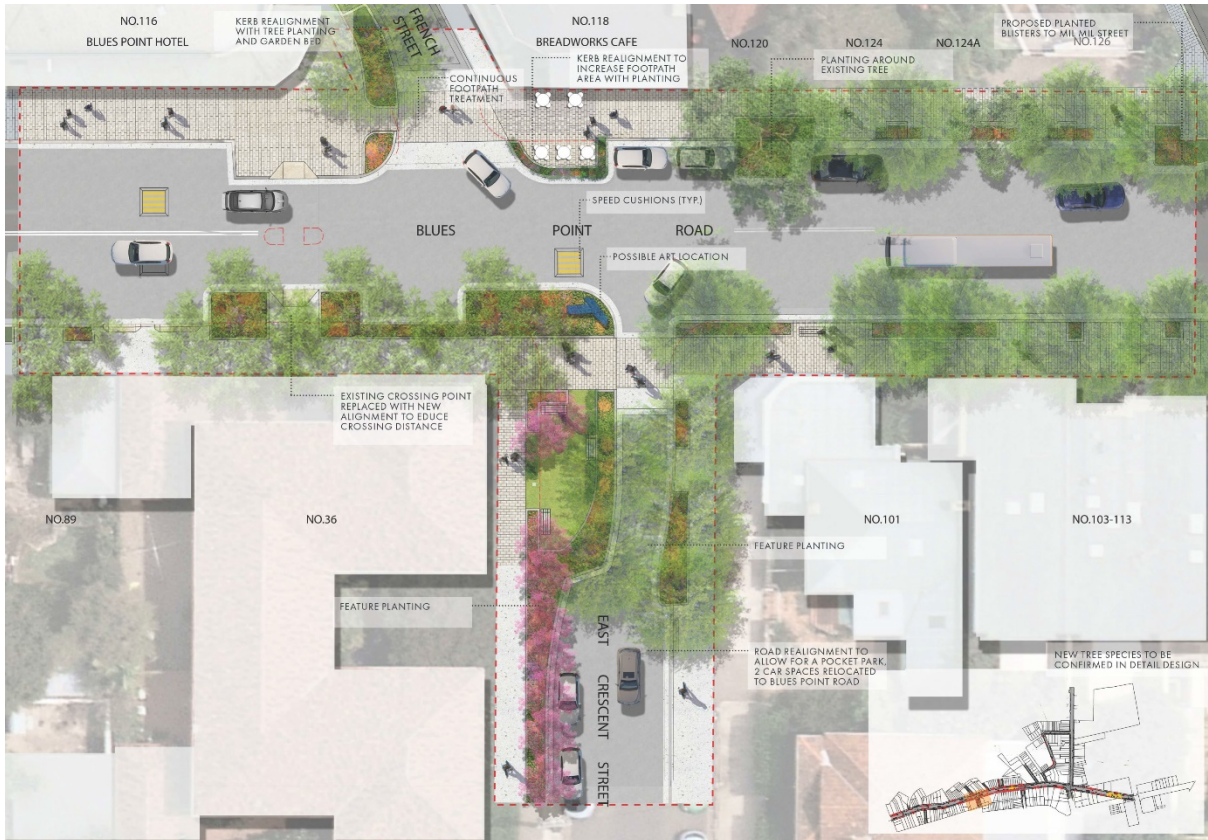
The following graph shows the prioritisation preference results, with Zone 2 - Blues Point Road Village ranking 1<sup>st</sup> with a score of 1.69, followed by Zone 3 - East Crescent Street Pocket Park, – ranked 2<sup>nd</sup> with a score of 2.01 and finally Zone 1 - Blue Street Gateway ranked 3<sup>rd</sup> with a score of 2.28.



**Figure 5 - Question 5 Survey Responses Graph**



Artists Impression of the “East Crescent Street Pocket Park – taken from the Masterplan for McMahons Point - Blues Point Road Village Centre. Adopted by Council in April 2021.



Plan of the “East Crescent Street Pocket Park – taken from the Masterplan for McMahons Point - Blues Point Road Village Centre. Adopted by Council in April 2021.



Photo 1. The existing site – 21/06/22





Photo 2. The existing site – 21/06/22



Photo 3. The existing site – 21/06/22



Photo 4. The existing site – 21/06/22



Photo 5. The existing site – 21/06/22

## Project Program

<b>Milestone</b>	<b>Start date</b>	<b>Completion Date</b>
1. Development of detailed documentation for tender / construction purposes	01/06/2022	01/07/2022
Tender Process	04/07/2022	29/7/2022
Tender Award	29/7/2022	
Construction commences	08/08/2022	06/10/2022
Temporary 'Pocket Park' Completion and Trial Period Commencement. Trial completed by February 2023	06/10/2022	28/2/2023



**Dated** 24 May 2022

## **Funding Agreement**

### **Streets as Shared Spaces**

**Crown in right of the State of New South Wales acting through the  
Department of Transport**

**North Sydney Council** a body politic of the State constituted under the *Local  
Government Act 1993* (ABN 32353260317)

**Table of contents**

<b>1.</b>	<b>Definitions</b>	<b>1</b>
1.0	Definitions	1
1.1	Interpretation	5
1.2	Construction	6
<b>2.</b>	<b>Term</b>	<b>6</b>
<b>3.</b>	<b>Provision of Funding</b>	<b>6</b>
3.1	Payment of Funding	6
<b>4.</b>	<b>Project</b>	<b>7</b>
4.0	Project Requirements	7
4.1	Conduct of Project	7
4.2	Milestones	7
4.3	Project Plan	7
4.4	Recipient Obligations	7
4.5	Responsibility of the Recipient	8
4.6	Project Completion	8
<b>5.</b>	<b>Subcontractors and Delivery Partners</b>	<b>8</b>
5.1	Recipient may subcontract	8
5.2	Recipient may provide funding to Delivery Partners	9
<b>6.</b>	<b>Taxes, duties and government charges</b>	<b>9</b>
<b>7.</b>	<b>Debt and Interest</b>	<b>9</b>
<b>8.</b>	<b>GST</b>	<b>10</b>
8.0	Definitions	10
8.1	Consideration is GST-exclusive	10
8.2	GST payable on taxable supply	10
<b>9.</b>	<b>Management Funding</b>	<b>10</b>
9.0	Account and financial records	10
9.1	Refunds of unexpended and misspent Funds	10
<b>10.</b>	<b>Statutory Approvals and Consultation</b>	<b>12</b>
<b>11.</b>	<b>Records &amp; Audit</b>	<b>12</b>
11.0	Keeping Records	12
11.1	Retention of Records	12
11.2	Audit	12
11.3	State Records Act	13
<b>12.</b>	<b>Confidential information</b>	<b>13</b>
12.0	Obligation	13
12.1	Written Undertakings	13
12.2	Exceptions to confidentiality	13
12.3	Obligation to notify	14
12.4	Period of Confidentiality	14
12.5	Survival of clause	14
<b>13.</b>	<b>Privacy</b>	<b>14</b>
13.0	Privacy Obligations	14

13.1	No reduction in Privacy Obligations	14
<b>14.</b>	<b>Acknowledgement and publicity</b>	<b>14</b>
14.0	Acknowledgement of support	14
14.1	Right to publicise Funding and the Project	15
14.2	Removal of promotional material	16
<b>15.</b>	<b>Liability and Insurance</b>	<b>16</b>
15.0	Insurance	16
15.1	Proportionate liability regime	16
15.2	Indemnity	16
<b>16.</b>	<b>Dispute Resolution</b>	<b>17</b>
16.0	Procedure for dispute resolution	17
16.1	Costs	18
16.2	Continued performance	18
16.3	Application of clause	18
<b>17.</b>	<b>Termination</b>	<b>18</b>
17.0	Termination for fault	18
17.1	Preservation of other rights	18
<b>18.</b>	<b>Assignment</b>	<b>18</b>
<b>19.</b>	<b>General Warranties</b>	<b>18</b>
<b>20.</b>	<b>Notices</b>	<b>19</b>
20.0	Notices	19
20.1	Service of Notices	19
<b>21.</b>	<b>Work Health and Safety</b>	<b>20</b>
21.1	Compliance with Work Health and Safety Law	20
<b>22.</b>	<b>General provisions</b>	<b>20</b>
22.1	Inconsistency	20
22.2	Entire agreement	20
22.3	Variation	20
22.4	Waiver	20
22.5	Conflicts of Interest	20
22.6	Further assurances	21
22.7	Time for doing acts	21
22.8	Governing law and jurisdiction	21
22.9	Severance	21
22.10	Preservation of existing rights	21
22.11	No merger	21
22.12	Electronic execution and counterparts	21
22.13	Relationship of parties	22
22.14	Legal expenses	22
<b>23.</b>	<b>COVID-19</b>	<b>23</b>
	<b>Execution page</b>	<b>24</b>
	<b>Schedule 1 Agreement Details</b>	<b>24</b>
	<b>Schedule 2 Funding Schedule</b>	<b>24</b>
	<b>Schedule 3 - Milestones Schedule</b>	<b>27</b>

**Schedule 4 - Variations Schedule**

**27**

**This Funding Agreement** is dated

**Parties:**

**Department**

**The Crown in right of the State of New South Wales acting through the Department of Transport** of 231 Elizabeth Street Sydney NSW 2000.

**Recipient**

**North Sydney Council** a body politic of the State constituted under the *Local Government Act 1993* (ABN 32353260317) of 200 Miller Street, North Sydney NSW, 2060.

**Introduction:**

- A** The NSW Government has established the Program which aims to support eligible councils to carry out trial demonstration projects and strategic pilot projects that strengthen the amenity, accessibility and economic vitality of a high street and surrounding area, taking a place-based approach.
- B** The Recipient has nominated the Project for funding through the Program and has made an application for funding.
- C** The Department has agreed to provide the Funding from the Program to the Recipient to facilitate the carrying out of the Project by the Recipient.
- D** The objective of this Agreement is to document the agreed outcomes for the Project including timing for payment of the Funding.
- E** The parties also agree that in the event that part of the Funding is not required or used by the Recipient for the Project, those unspent funds will be returned to the Department.
- F** The Department agrees to provide, and the Recipient agrees to accept, the Funding in accordance with the terms of this Agreement.

**It is agreed:**

In consideration of the mutual promises contained in this Agreement, the parties to this Funding Agreement agree as follows:

**1. Definitions**

**1.1 Definitions**

In this Agreement, unless the context clearly indicates otherwise:

**ABN** means (Australian Business Number) as set out in section 41 of the *A New Tax System (Australian Business Number) Act 1999* (Cth);

**Additional Project Works or Deliverables** means the works or deliverables required to be completed by the Recipient in addition to the works or deliverables in the Recipient's application, as set out in Item 11 of the Agreement Details;



**Agreement** means this document and includes any Schedules and Annexures;

**Agreement Details** means those details in Schedule 1 of this Agreement;

**Annexure** means any annexure to a Schedule;

**Asset** means any item of property, purchased, leased, hired, financed, created or otherwise brought into existence either wholly or in part with use of the Funding, but excludes any Intellectual Property Rights;

**Australian Accounting Standards** refers to the standards of that name maintained by the Australian Accounting Standards Board created by section 226 of the *Australian Securities and Investments Commission Act 2001* (Cth);

**Australian Auditing Standards** refers to the standards made by the Auditing and Assurance Standards Board created by section 227A of the *Australian Securities and Investments Commission Act 2001* (Cth);

**Australian Privacy Principle** has the same meaning as it has in the *Privacy Act 1988* (Cth);

**Business Day** means any day that is not a Saturday, Sunday, gazetted public holiday or bank holiday in Sydney, New South Wales, and concludes at 5 pm on that day;

**Confidential Information** means:

- (a) terms of this Agreement and all confidential information, Material and technology disclosed or provided in any form by any party to any other party in connection with the subject matter of this Agreement;
- (b) the information (if any) described in Item 7 of the Agreement Details; and
- (c) information that the parties agree in writing after the Date of this Agreement is confidential information for the purposes of this Agreement;

**Copyright Material** has the same meaning as it has in the Copyright Act 1968 (Cth);

**Core Indicators** means the indicative core metrics referred to in the Milestones Schedule and annexed to this Agreement at Annexure B, as amended from time to time;

**Date of this Agreement** means the date written on page 1 of this Agreement, or if no date is written there, then the date on which the Agreement is signed by the last party to do so;

**Delivery Partner** means a third-party organisation or association that has received a grant from the Recipient in accordance with clause 5.2.

**Department** where the context permits, includes officers, delegates, employees and agents and successors of the Department of Transport;

**Department Representative** means the person specified in Item 9 of the Agreement Details and includes any person who replaces that person in the same position within the Department as notified to the Recipient by written Notice;

**Department Material** means any Material:

- (a) provided by the Department to the Recipient for the purposes of this Agreement; or
- (b) derived at any time from the Material referred to in paragraph (a);

**Dispose** means to sell, licence, lease or sublease, or otherwise transfer or give up ownership or the right to occupy or use, or to enter into an agreement to do any of the preceding acts and “Disposal” means the method of so disposing;

**Existing Material** means all Material in existence prior to the Date of this Agreement;

- (a) incorporated in;
- (b) supplied with, or as part of; or
- (c) required to be supplied with, or as part of,

the Project Material;

**Financial Year** means each period from 1 July to the following 30 June occurring during the term of this Agreement, or any part of such a period occurring at the beginning or end of the term of this Agreement;

**Funding** means the amount or amounts payable by the Department under this Agreement as specified in Item 5 of the Agreement Details;

**Funding Acknowledgement Guidelines** means the NSW Government Funding Acknowledgement Guidelines for Recipients of NSW Government Infrastructure Grants dated 11 February 2021 and as updated from time to time and available at <https://www.nsw.gov.au/branding/sponsorship-and-funding-acknowledgment-guidelines/funding-acknowledgement-guidelines#toc-guidelines> or as otherwise notified by the Department;

**Funding Schedule** means Schedule 2 to this Agreement;

**GST** has the meaning that it has in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

**Information Privacy Principle** has the meaning given in the *Privacy and Personal Information Protection Act 1998* (NSW);

**Intellectual Property Rights** includes:

- (a) all copyright (including rights in relation to phonograms and broadcasts);
- (b) all rights in relation to inventions, plant varieties, trademarks (including service marks), designs, circuit layouts;
- (c) all other rights resulting from intellectual activity in the industrial, scientific literary or artistic fields; and
- (d) Moral Rights;

**Law** includes:

- (a) Acts of the Commonwealth and the State(s) and Territory(s) in which the Project will be undertaken, and any other relevant State or Territory;
- (b) ordinances, regulations, by-laws, orders and proclamations or other instruments of legal effect made under those Acts referred to in paragraph (a);
- (c) directions by any person exercising statutory powers regarding the Recipient or the Project; and

- (d) all the requirements, standard, approvals, licences, registrations or permits of any government (including local government) department, authority, agency or regulatory body that apply to the Project,

whether currently in force or coming into force on or after the Date of this Agreement;

**Material** means anything in relation to which Intellectual Property Rights arise;

**Milestone** means a milestone or stage of completion of the Project as set out in the Milestones Schedule;

**Milestones Schedule** means Schedule 3 to this Agreement;

**Moral Rights** includes the following rights of an author of Copyright Material:

- (a) the right of attribution of authorship;
- (b) the right of integrity of authorship; and
- (c) the right not to have authorship falsely attributed;

**Notice** has the meaning in clause 20.1;

**Personnel** means:

- (a) in relation to the Recipient – any natural person who is an officer, employee, agent, or professional advisor of the Recipient or its subcontractors or Delivery Partners; and
- (b) in relation to the Department – any natural person who is an officer, employee, agent or professional advisor of the Department;

**Privacy Law** means the *Privacy Act 1988* (Cth), the *Privacy Regulations 2013* (Cth), the Australian Privacy Principles, the Information Privacy Principles, the *Privacy and Personal Information Protection Act 1998* (NSW), the *Privacy and Personal Information Protection Regulations 2014* (NSW);

**Program** means the program under which the Department is able to provide Funding to the Recipient as further described at Item 8 of the Agreement Details;

**Project** means the Project described in Item 1 of the Agreement Details and includes the Additional Project Works or Deliverables and the provision of the Project Material to the Department;

**Project Commencement Date** means the date set out in Item 2 of the Agreement Details;

**Project Completion Date** means the date set out in Item 3 of the Agreement Details as the Project Completion Date;

**Project Location** means the locations set out in Item 8 of the Agreement Details;

**Project Material** means any Material:

- (a) created by the Recipient for the purpose of this Agreement;
- (b) provided or required to be provided to the Department under the Agreement; or
- (c) derived at any time from the Material referred to in paragraphs (a) or (b),

and includes

- (d) any Existing Material incorporated in the Material referred to in paragraphs (a) or (b) above; and
- (e) any Promotional Material;

**Project Objectives** means the objectives of the Project described in Item 4 of the Agreement Details;

**Project Plan** means the project plan referred to in clause 4.4 and annexed to this Agreement at Annexure A, as amended from time to time;

**Promotional Material** means any photo, artist impression, video or any other promotional material relating to the Project reasonably required by the Department;

**Recipient** includes, where the context permits, the officers, employees, agents, volunteers and subcontractors, and successors of the Recipient;

**Recipient Representative** means the person specified in Item 10 of the Agreement Details and includes any person who replaces that person in the same position within the Recipient organisation, as notified to the Department by written Notice;

**Records** includes documents, information and data stored by any means and all copies and extracts of the same;

**Schedule** means a schedule to this Agreement and may include Annexures and incorporate other documents by reference;

**Smarty Grants** refers to the grant management program used to submit and manage applications;

**Unexpended Funding** means any part of the Funding that is unspent or uncommitted; and

**Variations Schedule** means Schedule 4 to this Agreement.

## 1.2 Interpretation

In this Agreement, unless the context clearly indicates otherwise:

- (a) a reference to **this Agreement** or another document means this agreement or that other document and any document which varies, supplements, replaces, assigns or novates this agreement or that other document;
- (b) a reference to **legislation** or a **legislative provision** includes any statutory modification or substitution of that legislation or legislative provision and any subordinate legislation issued under that legislation or legislative provision;
- (c) a reference to a **body** or **authority** which ceases to exist is a reference to either a body or authority that the parties agree to substitute for the named body or authority or, failing agreement, to a body or authority having substantially the same objects as the named body or authority;
- (d) a reference to the **introduction**, a **clause**, **schedule** or **annexure** is a reference to the introduction, a clause, a schedule or an annexure to or of this agreement;
- (e) **clause headings** and the **table of contents** are inserted for convenience only and do not form part of this agreement;
- (f) the **introduction**, **schedules** (if any) and **annexures** (if any) form part of this agreement;

- (g) the **introduction** accurately sets out the circumstances in which the parties have entered into this agreement;
- (h) a reference to a **person** includes a natural person, corporation, statutory corporation, partnership, the Crown or any other organisation or legal entity;
- (i) a reference to a **natural person** includes their personal representatives, successors and permitted assigns;
- (j) a reference to a **corporation** includes its successors and permitted assigns;
- (k) a reference to a right or obligation of a party is a reference to a right or obligation of that party under this agreement;
- (l) an **obligation** or **warranty** on the part of 2 or more persons binds them jointly and severally and an obligation or warranty in favour of 2 or more persons benefits them jointly and severally;
- (m) a reference to a **breach of warranty** includes that warranty not being complete, true or accurate;
- (n) a requirement to do any thing includes a requirement to cause that thing to be done and a requirement not to do any thing includes a requirement to prevent that thing being done;
- (o) **including** and **includes** are not words of limitation;
- (p) the words **at any time** mean at any time and from time to time;
- (q) a reference to a time is to that time in New South Wales;
- (r) a word that is derived from a defined word has a corresponding meaning;
- (s) **monetary amounts** are expressed in Australian dollars;
- (t) the singular includes the plural and vice-versa;
- (u) words importing one gender include all other genders; and
- (v) a reference to a thing includes each part of that thing.

### 1.3 Construction

Neither this Agreement nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

## 2. Term

This Agreement commences on the Date of the Agreement.

## 3. Provision of Funding

### 3.1 Payment of Funding

- (a) Subject to sufficient funds being available, and compliance by the Recipient with this Agreement, the Department agrees to provide the Recipient with the Funding at the times and in the manner specified in the Funding Schedule.

- (b) The Department is not responsible for the provision of additional money to meet any expenditure in excess of the Funding.

#### **4. Project**

##### **4.1 Project Requirements**

The Recipient must:

- (a) use the Funding to complete the Project and for no other purpose;
- (b) commence the Project no later than the Project Commencement Date; and
- (c) complete the Project by the Project Completion Date.

##### **4.2 Conduct of Project**

The Recipient agrees to carry out the Project:

- (a) to achieve the Project Objectives and for no other purpose;
- (b) to meet the Milestones in accordance with clause 4.3;
- (c) in an efficient, effective, economical and ethical manner;
- (d) diligently and to a high standard;
- (e) in accordance with this Agreement, including the Project Plan; and
- (f) in accordance with all applicable Laws.

##### **4.3 Milestones**

The Recipient must complete, to the satisfaction of the Department:

- (a) each Milestone; and
- (b) each obligation or requirement imposed by each Milestone,

on or before the date specified for the completion of that Milestone in the Milestones Schedule.

##### **4.4 Project Plan**

- (a) The Recipient has prepared the Project Plan and the Department has approved the Project Plan.
- (b) The Project Plan sets out, among other matters, the works and deliverables that must be completed by the Recipient in connection with the Project and the scope of works and costs schedule for each component of the Project.
- (c) Where applicable, the Recipient may seek to amend the Project Plan, subject to the approval of The Department, in accordance with the Variations Schedule, to incorporate additional works and deliverables to be completed by the Recipient.
- (d) The Recipient must carry out the Project in accordance with the Project Plan.

##### **4.5 Recipient Obligations**

- (a) The Recipient agrees to:

- (i) liaise with and provide information, any reports or other documents to the Department as reasonably requested by the Department, including as required at any Milestones; and
  - (ii) comply with all of the Department's reasonable requests, directions, monitoring or reporting requirements.
- (b) In relation to conducting a review and final evaluation of the Program, the Recipient agrees to:
- (i) respond to all of the Department's reasonable requests; and
  - (ii) provide any information the Department reasonably requires.
- (c) The Recipient agrees to provide the reports to the Department as required and in the manner specified in the Milestones Schedule.
- (d) Each of the parties may nominate, from time to time, a person who has authority to receive and sign Notices and written communications for each of them under this Agreement and accept any request or direction in relation to the Project.

#### **4.6 Responsibility of the Recipient**

The Recipient is fully responsible for the performance of the Project and for ensuring compliance with the requirements of this Agreement, and will not be relieved of that responsibility because of any:

- (a) involvement by the Department in the performance of the Project;
- (b) subcontracting of the Project;
- (c) provision of part of the Funding by the Recipient to a Delivery Partner; or
- (d) payment of any amount of Funding by the Department to the Recipient.

#### **4.7 Project Completion**

The Recipient acknowledges and agrees that:

- (a) the Funding must only be used by the Recipient for the Project up to and including the Project Completion Date; and
- (b) continuation of the Project by the Recipient beyond the Project Completion Date is not an extension of continuation of the Project for the purposes of this Agreement.

### **5. Subcontractors and Delivery Partners**

#### **5.1 Recipient may subcontract**

- (a) The Recipient is fully responsible for the performance of the Recipient's obligations under this Agreement and may subcontract any part of its obligations under this Agreement.
- (b) The Recipient must have a written contract with each of the Recipient's subcontractors (**subcontract**) and ensure that each subcontract is consistent with, and allows the Recipient to give effect to, the Recipient's obligations under this Agreement.
- (c) The Recipient is responsible for ensuring the suitability of a subcontractor for the work proposed to be carried out.

- (d) The Recipient must ensure that its subcontractors comply with the relevant terms of this Agreement and do not do anything, or omit to do anything, which if done or omitted to be done by the Recipient would be a breach of the Recipient's obligations under this Agreement.
- (e) The Recipient shall be deemed to be responsible for any and all breaches of this Agreement committed by its subcontractors as if the Recipient had breached the Agreement itself.

#### **5.2 Recipient may provide funding to Delivery Partners**

- (a) The Recipient may use a portion of the Funding, to provide funding to any number of Delivery Partners to carry out community events or activities for the purposes of the Project.
- (b) The Recipient must ensure that the purposes for which any portion of the Funding is granted to a Delivery Partner is consistent with, and allows the Recipient to give effect to, the Recipient's obligations under this Agreement.
- (c) The Recipient will be responsible for demonstrating that any funding provided to a Delivery Partner by the Recipient out of the Funding has been used in accordance with the terms of this Agreement.

#### **6. Taxes, duties and government charges**

- (a) The Recipient agrees to pay all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of this Agreement.

#### **7. Debt and Interest**

- (a) In this clause 7, 'Interest' means interest calculated at an interest rate equal to the general interest charge rate for a day pursuant to section 8AAD of the *Taxation Administration Act 1953* (Cth), on a daily compounding basis.
- (b) The Recipient agrees, upon request of the Department, to pay any amount owed or payable to the Department or which the Department is entitled to recover from the Recipient under this Agreement, including if demanded by the Department any Interest, as a debt due by the Recipient without further proof of the debt by the Department being necessary. Such payment is without prejudice to any other rights available to the Department under the Agreement, under statute, at law or in equity.
- (c) If the Department notifies the Recipient that an amount is to be refunded or otherwise paid to the Department and the amount is not refunded or paid within 20 Business Days, or as otherwise notified by the Department, the Recipient agrees to pay Interest, unless the Department notifies the Recipient otherwise, on the amount outstanding after the expiry of the date it was due, until the amount is paid in full.
- (d) In respect to any obligation the Recipient may have under this Agreement to pay the Department any Interest, the Recipient agrees that the Interest represents a reasonable pre-estimate of the loss incurred by the Department.



## **8. GST**

### **8.1 Definitions**

Words used in this clause that are defined in the GST Law have the meaning given in that legislation.

### **8.2 Consideration is GST-exclusive**

Unless otherwise specified, all amounts payable under this Agreement are exclusive of GST and must be calculated with regard to GST.

### **8.3 GST payable on taxable supply**

- (a) If a supply made under this Agreement is a taxable supply, the recipient of that taxable supply (**Recipient**) must, in addition to any other consideration, pay to the party making the taxable supply (**Supplier**) the amount of GST in respect of the supply.
- (b) The Recipient will only be required to pay an amount of GST to the Supplier if and when the Supplier provides a valid tax invoice to the Recipient in respect of the taxable supply.
- (c) If there is an adjustment to a taxable supply made under this Agreement then the Supplier must provide an adjustment note to the Recipient.
- (d) The amount of a party's entitlement under this Agreement to recovery or compensation for any of its costs, expenses or liabilities is reduced by the input tax credits to which that party is entitled in respect of those costs, expenses or liabilities.

## **9. Management Funding**

### **9.1 Account and financial records**

- (a) The Recipient agrees to ensure that the Funding is held in an account in the Recipient's name and which the Recipient solely controls, with an authorised deposit-taking institution authorised under the *Banking Act 1959* (Cth) to carry on banking business in Australia and that is an account that complies with any other reasonable requirements of the Department.
- (b) The Recipient agrees to:
  - (i) keep financial accounts and Records relating to the Funding and Project that identify:
    - (A) all receipts and payments related to the Funding and Project; and
    - (B) all interest earned on the Funding.
  - (ii) unless otherwise notified by the Department, prepare financial statements for the Project in accordance with Australian Accounting Standards including:
    - (A) a register of the Assets created, acquired, written-off or Disposed of during the Financial Year to date; and
    - (B) arrange for the audit of those accounts and Records in accordance with Australian Auditing Standards.

## 9.2 Refunds of unexpended and misspent Funds

- (a) Without limiting the Department's rights under this Agreement, the Department may by Notice in writing recover all or part of the Funding from the Recipient (as a debt due and payable on demand) in any of the circumstances set out below in Column A in the table below, but only to the extent set out in Column B in the table below:

	<b>Column A: Circumstance in which some or all of the Funding may be recovered by the Department</b>	<b>Column B: Extent to which some or all of the Funding may be recovered by the Department</b>
1.	The Recipient is paid more than the Funding as specified in this Agreement.	Only to the extent of the amount of overpayment.
2.	The Recipient has incorrectly claimed some or all of the Funding.	Only to the extent which the Funding has been incorrectly paid to the Recipient.
3.	The Recipient abandons the Project.	Only to the extent of any Unexpended Funding.
4.	There is Unexpended Funding at the Project Completion Date.	Only to the extent of any Unexpended Funding.
5.	The Recipient breaches this Agreement (including, without limitation, not achieving any or all of the Milestones in accordance with the Milestones Schedule) and fails to remedy that breach within a reasonable time following receipt of a written request from the Department.	Only to the extent that any part of the Funding has been spent by the Recipient in breach of this Agreement.
6.	If this Agreement is terminated for any other reason.	Only to the extent of any Unexpended Funding.
7.	The Department, in its discretion, determines that the Project ceases to be viable before the Project Completion Date.	Only to the extent of any Unexpended Funding.
8.	The Department, in its discretion, determines that the Project when completed, did not achieve the scope of the Project.	Only to the extent of any Unexpended Funding.

- (b) If the Department exercises the right to require the refund of all or part of the Funding in accordance with clause 9.2(a), the Recipient must refund:
- (i) the full amount of the Funding; or
  - (ii) the part of the Funding that is the subject of the Notice,

within the period (which must be reasonable in the circumstances) specified in the written Notice.

- (c) In addition to the Department's right under clause 9.2(a)4 above, if the cost of the completed Project, is less than the Funding, the Department may by a Notice require the Recipient to otherwise deal with the Unexpended Funding in accordance with any conditions that the Department considers appropriate, including conditions relating to the ongoing use and expenditure by the Recipient of that amount for particular goals or objectives associated with the Project.
- (d) This clause survives termination or expiry of this Agreement.

## **10. Statutory Approvals and Consultation**

- (a) The Recipient must obtain all necessary statutory approvals and undertake appropriate consultation in relation to the Project, and the Recipient must give the Department satisfactory written evidence that these statutory approvals have been obtained.
- (b) If the Recipient does not comply with the requirement in subclause 10(a), the Department may at the Department's sole discretion terminate this Agreement in accordance with clause 17.1.

## **11. Records & Audit**

### **11.1 Keeping Records**

The Recipient must create and maintain full and accurate accounts and Records of the conduct of the Project including, without limitation, all:

- (a) progress against the Milestones; and
- (b) receipt and use of Funding.

### **11.2 Retention of Records**

The Recipient agrees to create and maintain Records and accounts under clause 11.1 and retain them for a period of no less than seven years after the end of the term of this Agreement.

### **11.3 Audit**

- (a) The Department may at its expense and in its discretion conduct an audit of the Recipient's compliance with this Agreement.
- (b) The Department or a person commissioned by the Department will give the Recipient prior notice of its requirements in relation to an audit and endeavour to minimise disruption and interference to the Recipient's performance of its obligations under this Agreement.
- (c) The Recipient must co-operate fully with the audit, including permitting the person conducting the audit to inspect and make copies of the Recipient's Records and materials relevant to the Project and the performance of this Agreement.
- (d) Except where otherwise determined by the Department, the Recipient is responsible for its own costs of participating in or conducting an audit and such costs are not to be paid out of the Funding.

- (e) The Recipient must promptly take any reasonable action required by the Department to rectify any error, non-compliance or inaccuracy identified in an audit in relation to the Project or the Recipient's performance of this Agreement.
- (f) The Recipient is not entitled to any delay costs or other costs or expenses of whatever nature relating in any way to an audit.
- (g) Where the Department directs, the Recipient must not further spend nor make any further commitment to spend any amount of Funding until such time as the audit has been completed and the Department has confirmed in writing that any action required under clause 11(e) has been taken.

#### **11.4 State Records Act**

The Recipient agrees to comply with all obligations under, and reasonable directions from the Department in respect of, the State Records Act 1998 (NSW) and the State Records Regulation 2015 (NSW).

### **12. Confidential information**

#### **12.1 Obligation**

- (a) Subject to this clause 12, each party must maintain in confidence all Confidential Information and ensure that the Confidential Information is kept confidential.
- (b) The Recipient agrees to secure all of the Department's Confidential Information against loss and unauthorised access, use, modification or disclosure.

#### **12.2 Written Undertakings**

The Recipient must, on request by the Department at any time, arrange for a Delivery Partner or any other third party

to give a written undertaking in a form acceptable to the Department relating to the use and non-disclosure of the Department's Confidential Information.

#### **12.3 Exceptions to confidentiality**

The obligations on the parties under this clause 12 will not be taken to have been breached to the extent that the Confidential Information:

- (a) is required to be disclosed by Law to disclose, in which case the disclosing party must immediately notify the other party of the requirement and must take lawful steps and permit the opposition or restriction of the disclosure to preserve, as far as possible, the confidentiality of the Confidential Information;
- (b) is disclosed by a party to its Personnel solely in order to comply with obligations, or to exercise rights, under this Agreement;
- (c) is disclosed to a party's internal management Personnel, solely to enable effective management or auditing of Agreement-related activities;
- (d) is disclosed by the Department to the responsible Minister;
- (e) is disclosed by the Department, in response to a request by a House or a Committee of the Parliament of New South Wales or the Commonwealth of Australia;

- (f) is shared by the Department (including other agencies), where this serves the Department's, the Crown in right of the State of New South Wales, or the Commonwealth of Australia's legitimate interests;
- (g) is in or enters the public domain for reasons other than a breach of this Agreement;
- (h) is disclosed to its professional advisers to obtain professional advice.

#### **12.4 Obligation to notify**

Where a party discloses Confidential Information to another person pursuant to clause 12.3 the disclosing party must notify the receiving person that the information is confidential.

#### **12.5 Period of Confidentiality**

The obligations under this clause 12 will continue, notwithstanding the expiry or termination of this Agreement until the Confidential Information is in the public domain.

#### **12.6 Survival of clause**

This clause 12 will survive the termination of this Agreement.

### **13. Privacy**

#### **13.1 Privacy Obligations**

- (a) The Recipient agrees, in conducting the Project:
  - (i) not to do any act or engage in any practice which, if done or engaged in by the Department, would be a breach of a Privacy Law;
  - (ii) to comply with the Privacy Law; and
  - (iii) to comply with any directions, guidelines, determinations or recommendations of the Department, to the extent that they are consistent with the Privacy Law.
- (b) The Recipient agrees to notify the Department immediately if it becomes aware of a breach or possible breach of any of its obligations under this clause 13.1.
- (c) The provisions of this clause 13.1 survive the termination or expiration of this Agreement.

#### **13.2 No reduction in Privacy Obligations**

The obligations in clause 12 do not detract from any of the Recipient's obligations under the Privacy Law or under clause 13.1.

### **14. Acknowledgement and publicity**

#### **14.1 Acknowledgement of support**

- (a) Unless otherwise notified by the Department, the Recipient agrees, in all publications, promotional and advertising Materials, public announcements, promotional plaques and activities by the Recipient or on the Recipient's behalf in relation to the Project, or any products, processes or inventions developed as a result of it, to acknowledge the financial and other support the Recipient has received from the New South Wales Government, and to reference the Program name (being "Streets as Shared Spaces"), in accordance with the

Funding Acknowledgement Guidelines or as otherwise approved by the Department prior to its use.

- (b) Where the Recipient has been provided with Funding to produce any publication, a copy of the publication must, on request, be provided to the Department.
- (c) The Recipient must provide the Department with no less than 10 Business Days' Notice of any proposed publications, promotional and advertising Materials and activities instigated by the Recipient with a connection or reference to the Project.
- (d) The Recipient must invite the responsible Minister and Departmental representatives to any formal launch events. To make an invitation, the Recipient will send a notice via [www.nsw.gov.au/your-government/ministers](http://www.nsw.gov.au/your-government/ministers) and to [PublicSpace@planning.nsw.gov.au](mailto:PublicSpace@planning.nsw.gov.au) at least 20 Business Days prior to the applicable event date.
- (e) If an invitation is accepted by the Minister or a Department representative, the Recipient will work with the Department's nominated media officer on the arrangements and media protocols.
- (f) If an invitation is issued under subclause (d) above, the Recipient must:
  - (i) provide the responsible Minister and the Department with all such information as reasonably required by the Department regarding the time and date of the proposed public announcements and activities; and
  - (ii) do such things as required to allow responsible Minister and/or a representative of the Department to attend or participate in (including making an announcement at any public announcement or activity) which the Department may choose to do so in its absolute discretion.

#### **14.2 Right to publicise Funding and the Project**

- (a) The Recipient will provide to the Department Promotional Material to enable the Department to publicise, promote and report on the Project. The Recipient shall be solely responsible for obtaining all necessary Intellectual Property Rights for the Department's use of the Promotional Material.
- (b) The Department reserves the right to use the Promotional Material to publicise, promote and report on the Project and/or awarding of Funding to the Recipient. The Department may do (but is not limited to doing) this by including the Recipient's name, the amount of the Funding given to the Recipient, the date the Agreement commences and its term, and the title, location, purpose and a brief description of the Project in media releases, general announcements about the Funding, annual reports or through any other means as determined by the Department.
- (c) The Recipient agrees to grant to (or will procure for) the Department a permanent, irrevocable, royalty-free, worldwide, non-exclusive, transferable licence (including a right of sublicence) to use, reproduce, exploit, communicate, adapt and distribute the Promotional Material for the purpose provided in subclause (a).
- (d) The Department may in its discretion and where it is practicable to do so, give a Notice to the Recipient of any such publication under subclause (b).
- (e) This clause survives termination or expiry of this Agreement.

**14.3 Removal of promotional material**

- (a) If the Department:
  - (i) terminates this Agreement under clause 17.1; or
  - (ii) otherwise determines in its absolute discretion that the Project is not consistent with the Project Objectives,

the Department may, by a Notice to the Recipient, request the Recipient to remove any promotional Material and the Recipient must immediately comply with such request.

**15. Liability and Insurance****15.1 Insurance**

- (a) The Recipient must take out and maintain during the term of this Agreement all appropriate insurance policies including, but not limited to:
  - (i) workers compensation insurance as required by Law for all persons involved in the delivery of the Project.
  - (ii) public liability insurance to the value of not less than \$20 million in respect of each and every occurrence and unlimited in the aggregate for any one period of cover.
  - (iii) insurance over all Assets used in connection with the Project funded or partly funded by the Funding, for their full replacement value.
- (b) On request by the Department, the Recipient must provide a copy of valid and current certificates of currency for the insurance and/or a warranty from its insurer that the policy extends to the Department and covers potential liability arising under this Agreement.
- (c) The Recipient must not do, permit or suffer any act, matter or thing or omission whereby the policy referred to in this clause may be vitiated, rendered void or voidable.

**15.2 Proportionate liability regime**

To the extent permitted by Law, the operation of any legislative proportionate liability regime is excluded in relation to any claim against the Recipient under or in connection with this Agreement.

**15.3 Indemnity**

- (a) The Recipient indemnifies the Department from and against any:
  - (i) cost or liability incurred by the Department;
  - (ii) loss of or damage to property of the Department; or
  - (iii) loss or expense incurred by the Department in dealing with any claim against it, including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used, or disbursements paid by the Department,
 arising from:
  - (iv) any breach by the Recipient of the Agreement;

- (v) any act or omission involving fault by the Recipient in connection with this Agreement;
  - (vi) the use of Assets; or
  - (vii) the use by the Department of the Project Material, including any claims by third parties about the ownership or right to use the Intellectual Property Rights in the Project Material.
- (b) The Recipient's liability to indemnify the Department under subclause (a) above will be reduced proportionately to the extent that any act or omission involving fault on the part of the Department or its Personnel contributed to the relevant cost, liability, loss, damage or expense.
- (c) The right of the Department to be indemnified under this clause 15.3 is in addition to, and not exclusive of, any other right, power or remedy provided by Law, but the Department is not entitled to be compensated in excess of the amount of the relevant cost, liability, loss, damage or expense.
- (d) In this clause 15.3, "fault" means any negligent or unlawful act or omission or wilful misconduct.

## **16. Dispute Resolution**

### **16.1 Procedure for dispute resolution**

The parties agree that a dispute arising under this Agreement will be dealt with as follows, and that, subject to clause 16.4, neither party will commence legal proceedings in relation to that dispute until this procedure is completed:

- (a) the party claiming that there is a dispute will give the other party a Notice setting out the nature of the dispute;
- (b) within five Business Days (or such other period as agreed by the parties in writing) each party will nominate a senior representative not having any prior involvement in the dispute;
- (c) the senior representatives will try to settle the dispute in good faith by direct negotiation between them;
- (d) failing settlement within a further 10 Business Days or such other period as agreed by the parties in writing (or failure of one or both parties to nominate a senior representative within the period set out in subclause (b) above), the parties may agree to refer the dispute to an independent third person with power:
  - (i) to intervene and direct some form of resolution, in which case the parties will be bound by that resolution; or
  - (ii) to mediate and recommend some form of non-binding resolution;
- (e) the parties will co-operate fully with any process instigated under subclause (d) in order to achieve a speedy resolution; and
- (f) if the parties have been unable to agree to refer the dispute to an independent third person, or they have agreed and a resolution is not reached within a further 20 Business Days (or such other period as the parties may agree in writing), either party may commence legal proceedings.



**16.2 Costs**

Each party will bear its own costs of complying with this clause 16, and the parties will bear equally the cost of any third person engaged under subclause 16.1(d).

**16.3 Continued performance**

Despite the existence of a dispute, the Recipient will (unless requested in writing by the Department not to do so) continue to perform the Recipient's obligations under this Agreement.

**16.4 Application of clause**

This clause 16 does not apply to:

- (a) legal proceedings by either party for urgent interlocutory relief; or
- (b) action by the Department under or purportedly under clauses 3, 9 or 17.

**17. Termination****17.1 Termination for fault**

- (a) If the Recipient does not comply with any of its obligations under this Agreement, then the Department:
  - (i) if it considers that the non-compliance is not capable of remedy – may by a Notice terminate this Agreement immediately;
  - (ii) if it considers that the non-compliance is capable of remedy – may, by a Notice require that the non-compliance be remedied within the time specified in the Notice, and if not remedied within that time, may terminate this Agreement immediately by giving a second Notice.
- (b) The Department may also by a Notice terminate this Agreement immediately if:
  - (i) in relation to this Agreement, the Recipient breaches any Law of the Commonwealth of Australia, or of a State or Territory;
  - (ii) another clause of this Agreement allows for termination under this clause 17.1; or
  - (iii) the Department is satisfied that any statement made in the Recipient's application for Funding is false or misleading in a way which would have affected the original decision to approve the Funding.

**17.2 Preservation of other rights**

Clause 17.1 does not limit or exclude any of the Department's other rights under this Agreement.

**18. Assignment**

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

**19. General Warranties**

Each party warrants to each other party that this Agreement creates legal, valid and binding obligations, enforceable against the relevant party in accordance with its terms.

## 20. Notices

### 20.1 Notices

Any notice, demand, consent, approval, request or other communication to be given under this Agreement (**Notice**) must be:

- (a) in writing;
- (b) given to the following contact person:
  - (i) in the case of the Department, that person specified in Item 9 of the Agreement Details, or other person as notified by the Department; or
  - (ii) in the case of the Recipient, that person specified in Item 10 of the Agreement Details, or other person as notified by the Recipient;
- (c) served in accordance with clause 20.2; and
- (d) unless this Agreement provides otherwise, in English.

### 20.2 Service of Notices

- (a) A Notice under this Agreement is only effective if it is in writing, and addressed as follows:
  - (i) if given by the Recipient to the Department – addressed to the Department at the Address for Service specified in Item 7 of the Agreement Details, or other address as notified by the Department; or
  - (ii) if given by the Department to the Recipient – given by the Department and addressed as specified in Item 8 of the Agreement Details, or other address as notified by the Recipient.
- (b) A Notice must be given at the recipient's Address for Service by being:
  - (i) hand delivered;
  - (ii) sent by electronic mail; or
  - (iii) sent by prepaid mail within Australia.
- (c) A Notice is given if:
  - (i) hand delivered, on the date of delivery;
  - (ii) sent by electronic mail, on the date of delivery unless an automated response is received by the receiver advising that the email has not been received by the recipient;
  - (iii) sent by prepaid mail within Australia, on the date that is 2 Business Days after the date of posting.
- (d) If a Notice is received:
  - (i) after 5:00 pm on any Business Day; or
  - (ii) on a day that is not a Business Day,

it is deemed to be received at 9:00 am on the next Business Day for the purposes of this clause 20.

## **21. Work Health and Safety**

### **21.1 Compliance with Work Health and Safety Law**

The Recipient agrees to comply with:

- (a) all Laws relating to work health and safety including (but not limited to), the *Work Health and Safety Act 2011* (NSW) and the *Work Health and Safety Regulation 2017* (NSW); and
- (b) to ensure compliance by any organisations or persons engage to contribute work on the Project with all applicable Laws.

## **22. General provisions**

### **22.1 Inconsistency**

If there is any inconsistency between provisions of this Agreement then the order of precedence will be:

- (a) **clause 1 to clause 22**; then
- (b) any **Schedules**; then
- (c) any **Annexures**.

### **22.2 Entire agreement**

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

### **22.3 Variation**

Unless provided for in the Variations Schedule, this Agreement must not be varied except by a later written document executed by all parties.

### **22.4 Waiver**

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

### **22.5 Conflicts of Interest**

- (a) The Recipient must not do anything to bring itself into a situation where it has a conflict of interest with the Department.
- (b) Where the Recipient identifies that there is a conflict of interest between itself and the Department (whether actual, perceived or potential) it must:
  - (i) immediately notify the Department;
  - (ii) take proactive steps to mitigate the impact of the conflict of interest;

- (iii) take steps to remove or manage the conflict of interest; and
  - (iv) do whatever the Department reasonably requests of it to remove or manage the conflict.
- (c) Where the conflict of interest is unable to be managed to the satisfaction of the Department then the Department may terminate this Agreement, such termination to be treated as it if were a termination for cause under clause 17.1 of this Agreement.

#### **22.6 Further assurances**

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

#### **22.7 Time for doing acts**

- (a) If:
  - (i) the time for doing any act or thing required to be done; or
  - (ii) a Notice period specified in this Agreement,
 expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that Notice period is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5 pm on the specified day, it is taken to have been done on the following Business Day.

#### **22.8 Governing law and jurisdiction**

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

#### **22.9 Severance**

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

#### **22.10 Preservation of existing rights**

The expiration or termination of this Agreement does not affect any right that has accrued to a party before the expiration or termination date.

#### **22.11 No merger**

Any right or obligation of any party that is expressed to operate or have effect on or after the completion, expiration or termination of this Agreement for any reason, will not merge on the occurrence of that event but will remain in full force and effect.

#### **22.12 Electronic execution and counterparts**

- (c) This Agreement may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

- (d) Each party consents to this Agreement and any variations of this Agreement being signed by electronic signature by the methods set out in this clause.
- (a) This clause applies regardless of the type of legal entity of the parties. If this Agreement or any subsequent variations are signed on behalf of a legal entity, the persons signing warrant that they have the authority to sign.
- (b) For the purposes of this clause, the parties agree that the following methods validly identify the person signing and indicate that person's intention to sign this Agreement and any variation of it:
  - (i) insertion of an image (including a scanned image) of the person's own unique signature on to the Agreement;
  - (ii) insertion of the person's name on to the Agreement; or
  - (iii) use of a stylus or touch finger on a touch screen to sign the Agreement;
  - (iv) provided that in each of the above cases, words to the effect of 'Electronic signature of me, [NAME], affixed by me on [DATE]' are also included on the Agreement;
  - (v) use of a reliable electronic signature and exchange platform (such as DocuSign or AdobeSign) to sign the Agreement; or
  - (vi) as otherwise agreed in writing (including via email) between the parties.
- (c) The parties agree that the above methods are reliable as appropriate for the purpose of signing this Agreement and that electronic signing of this Agreement by or on behalf of a party indicates that party's intention to be bound.
- (d) A signed copy of this Agreement transmitted by email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes.

#### **22.13 Relationship of parties**

Unless otherwise stated:

- (a) nothing in this Agreement creates a joint venture, partnership, or the relationship of principal and agent, or employee and employer between the parties; and
- (b) no party has the authority to bind any other party by any representation, declaration or admission, or to make any contract or commitment on behalf of any other party or to pledge any other party's credit.

#### **22.14 Legal expenses**

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


**23. COVID-19**

- (a) Both parties acknowledge the uncertainty arising from the current pandemic COVID- 19, the measures taken by State and Commonwealth Governments in relation to the pandemic, and the consequential effects on daily activities (“C-19 Emergency”).
- (b) If the Recipient becomes aware that its ability to comply with any of its obligations on time will be affected by the C-19 Emergency, it must, as soon as possible, give the other party a written notice which sets out:
  - (i) the nature and extent of the obligations affected by the C-19 Emergency;
  - (ii) the ways in which the C-19 Emergency will affect its ability to perform those obligations; and
  - (iii) a proposal that the parties either vary the Agreement to mitigate the effects of the C-19 Emergency (for example, to change time frames and/or the scope of the Project) or terminate by agreement.
- (c) When the Department receives a notice under this clause, it must respond to the notice as soon as practicable, and the parties will attempt in good faith to reach Agreement promptly to vary or terminate the Agreement.
- (d) Despite any other provisions in this Agreement, if the Department considers that, as a result of the C-19 Emergency:
  - (i) there is likely to be significant delay before the Recipient will be able to complete its obligations; or
  - (ii) the Program is no longer viable;the Department may terminate this Agreement by notice, with effect on the date stated in the notice.
- (e) The Recipient releases the Department from any claims in respect of termination under this clause 23.

**Execution page**

**Executed as a deed**

**Signed, sealed and delivered** for and on behalf of the **Crown in right of the State of New South Wales acting through the Department of Transport**) by its Authorised Officer but not so as to incur any personal liability in the presence of:

  
.....  
Signature of Witness\*

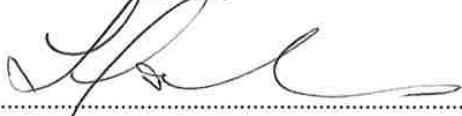
  
.....  
Signature of Authorised Officer

Katherine Bennett  
.....  
Name of Witness

Rebecca Mouy, Director Streets and Centres  
.....  
Name and position of Authorised Officer

[Include if to be witnessed remotely, otherwise delete: \*By signing this document, the witness states that they have witnessed the signature of the signatory over audio visual link in accordance with section 14G of the Electronic Transactions Act 2000 (NSW)]

**Signed, sealed and delivered** for and on behalf of **North Sydney Council** (ABN 32353260317) by its Authorised Officer:

  
.....  
Signature of Witness

 11/5/2022  
.....  
Signature of Authorised Officer

LINDA FORBES  
.....  
Name of Witness

Duncan Mitchell - Director Environment  
.....  
Name of Authorised Officer

[Include if to be witnessed remotely, otherwise delete: \*By signing this document, the witness states that they have witnessed the signature of the signatory over audio visual link in accordance with section 14G of the Electronic Transactions Act 2000 (NSW)]

**Schedule 1 Agreement Details**

	Item	Detail
1.	Project	<p>Construction of a new "Pocket Park" at the intersection of East Crescent Street and Blues Point Road. The works include:</p> <ul style="list-style-type: none"> <li>• Tree Planting and soft landscaping</li> <li>• New Public Lighting</li> <li>• New Street scape furniture</li> <li>• Public Art</li> <li>• Increased opportunities for outdoor dining</li> <li>• Continuous footpath treatment across East Crescent Street at Blues Point Road</li> <li>• Retain one-way ingress into East Crescent Street.</li> </ul>
2.	Project Objectives	<ul style="list-style-type: none"> <li>• Provide a more vibrant streetscape,</li> <li>• Provide more opportunities for outdoor dining</li> <li>• Provide improved pedestrian connectivity.</li> <li>• Provide more public Open Space in the densely built up village of McMahons Point</li> </ul>
3.	Funding	\$250,000.00
4.	Confidential Information	Nil
5.	Program	Streets as Shared Spaces (Round 2)
6.	Project Location	Refer to the Project Plan
7.	Department Address for Service	4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150
8.	Recipient Address for Service	200 Miller Street, North Sydney NSW, 2060.
9.	Department Representative	Scott Przibella, Senior Manager, Streets and Centres
10.	Recipient Representative	<p>Duncan Mitchell, Director of Engineering and Property Services, North Sydney Council.</p> <p>Project Manager – Matthew Noonan</p>
11.	Additional Project Works or Deliverables	1. Part-funding is provided for the East Crescent Street pocket park as a trial, utilising cost-effective measures.



**Schedule 2 Funding Schedule**

1. The Department will provide, or enable the provision of, the Funding to the Recipient in two payments for the Project in accordance with the Milestones Schedule.
2. The Recipient agrees to receive the Funding in accordance with, and subject to the terms of this Agreement.
3. Prior to the Department making any payment of the Funding to the Recipient, the Recipient agrees to provide the Department with:
  - (a) a valid tax invoice (including itemisation of the GST component) in accordance with the following requirements:
    - (i) be addressed to the Department of Planning and Environment (ABN 20 770 707 468) as agent for the Department;
    - (ii) prominently be identified as "Tax Invoice"; and
    - (iii) contain:
      - (A) the Recipient's name;
      - (B) the Recipient's ABN;
      - (C) the name of Project;
      - (D) the amount of Funding requested;
      - (E) the GST component (listed separately to the amount requested); and
      - (F) the total amount of Funding requested.

## Schedule 3 - Milestones Schedule

Milestone activities	Milestone Delivery Date	Timing for Funding Payment	Funding amount
<p><b>Project Commencement</b></p> <ul style="list-style-type: none"> <li>- Funding Agreement signed</li> <li>- Submit a correctly rendered invoice</li> </ul> <p><b>Submit via email to PublicSpace@planning.nsw.gov.au</b></p>	13 <sup>th</sup> of May 2022	At the completion of Milestone activities, to the satisfaction of the Department.	50% of the Funding being \$125,000.00
<p><b>Project Concept and Approvals</b></p> <p>Prepare and provide:</p> <ul style="list-style-type: none"> <li>- detailed concept plan</li> <li>- approvals from Transport for NSW, local traffic committee and other statutory bodies</li> <li>- high-resolution before images</li> <li>- baseline data that aligns to Core Indicators (Annexure B)</li> </ul> <p><b>Submit concept plan and attachments in Smarty Grants</b></p>	1 <sup>st</sup> of July 2022	At the completion of Milestone activities, to the satisfaction of the Department.	N/A
<p><b>Commence Trial</b></p> <ul style="list-style-type: none"> <li>- Complete roll-out of installations as outlined in the Project Plan.</li> <li>- Capture data, including monitoring numbers of people using the public space before, during and after the agreed project interventions.</li> </ul>	6 <sup>th</sup> of October 2022	At the completion of Milestone activities and submission of accompanying report, to the satisfaction of the Department.	50% of the Funding being \$125,000.00

<ul style="list-style-type: none"> <li>- Submit a correctly rendered invoice</li> <li>- Submit report in Smarty Grants</li> </ul>			
<p><b>Trial Completion and Evaluation</b></p> <p>Complete trial including any programming, events or activations.</p> <p>Provide report relating to project performance including:</p> <ul style="list-style-type: none"> <li>- Data collected throughout the project that aligns to the Core Indicators (Annexure B)</li> <li>- Outcomes and impacts of the project</li> <li>- Budget breakdown</li> <li>- High-resolution after imagery and videography</li> <li>- and any other information required by the Department.</li> </ul> <p>Submit a correctly rendered invoice</p> <p><b>Submit report in Smarty Grants.</b></p>	28 <sup>th</sup> of February 2023	At the completion of Milestone activities and submission of accompanying report, to the satisfaction of the Department. The report is due within 1 month of completion of the project.	N/A

**Schedule 4 - Variations Schedule**

The parties to this Agreement acknowledge and agree that the following terms or schedules of this Agreement may be varied by agreement between the parties as evidenced by signature by the Department Representative and the Recipient Representative next to the relevant variation in the table below, on and from the effective date for that variation:

1. Milestones Schedule
  - a. Changes to Milestones, including incorporation of additional Milestones, but not to the amount of Funding.
2. Project Plan
  - a. Changes to scope, provided there is no change to the Project Objectives.
  - b. Budget breakdown and allocation to project components other than any increase to labour costs.
3. Core Indicators

**Variations**

Variation	Effective Date	Signature of Department Representative	Signature of Recipient Representative

**Annexure A – Project Plan**

**Annexure B - Core Indicators**

Indicator	Measure	Evidence
Street trees planted	Quantity	Photos and/or video footage (before/after)
Additional planting at footway level	Quantity - excluding trees	Photos and/or video footage (before/after)
Additional public art	Quantity	Photos and/or video footage (before/after)
Public space improved or made accessible	Area in m2	Photos and/or video footage (before/after)
Additional lighting	Quantity	Photo and/or video footage (before/after)
Additional length of clear continuous space	Distance in metres	Photos and/or video footage (before/after)
Additional length of clear continuous cycling space	Distance in metres	Photos and/or video footage (before/after)
Project partners engaged	Quantity	Approved partnership proposals with local businesses and councils Letters of support
Employment opportunities – project delivery	Quantity of full-time equivalent roles	Project employment records
Employment opportunities – local business	Additional hours worked	Local business anecdotal reporting
Creative worker employment opportunities	Additional hours worked	Project employment records
Quantity of road space reallocated	Area in m2	Photos and/or video footage (before/after)
Total traffic speed reduction	Speed in km/h	Self-reported
Increase in foot traffic	Quantity	Pedestrian counts (before/after)
Increase in cyclists	Quantity	Cyclist counts (before/after)
Reduction in traffic, pedestrian or cyclist incidents	Quantity	Self-reported
Total traffic volume reduced	Quantity	Self-reported
Retail turnover	Quantity	Self-reported

## NORTH SYDNEY COUNCIL



## PROJECT PLAN/PROPOSAL

Please refer to the *Staff Guidelines for Project Management* for assistance in preparation of a project proposal.

1. Project Details	
<b>Project Title</b>	East Crescent Street Pocket Park – Streets As Shared Spaces Round 2
<b>Date Prepared</b>	May 2022
<b>Date Updated</b>	May 2022
<b>Proposed Completion Date</b>	Construction Complete for Trial: October 2022. Trial Period Complete: February 2023
<b>Project Coordinator</b>	Matthew Noonan
<b>Telephone Extension</b>	02 9936 8297

2. Project Overview	
<b>Project Objective</b>	<p>Construction of a trial “Pocket Park” at the intersection of East Crescent Street and Blues Point Road as part of the Blues Point Road Village Centre Public Domain Masterplan, which will achieve the following objectives:</p> <ul style="list-style-type: none"> <li>• A more vibrant streetscape,</li> <li>• A more opportunities for outdoor dining</li> <li>• An improved pedestrian connectivity.</li> <li>• A more public Open Space in the densely built-up village of McMahons Point</li> </ul> <p>On completion of the construction works, a trial period of 5 months will be undertaken to assess the success of the pocket park and assist in the future decision making for the permanent design implementation. Concurrently in parallel during the trial period Council will conduct a Human Movement Study, Community Consultation, Traffic and Parking Counts.</p>
<b>Outline</b>	<p>The project involves:</p> <ul style="list-style-type: none"> <li>• Continuous footpath treatment across East Crescent Street at Blues Point Road.</li> <li>• Retaining the one-way ingress into East Crescent Street.</li> <li>• Construction of new permanent and temporary soft landscaping elements, including trees, shrubs, ground covers and turf.</li> <li>• Installation New Public Lighting.</li> <li>• New Street scape furniture.</li> <li>• Increased public space encouraging increased opportunities for outdoor dining and community interaction.</li> <li>• Installation of Public Art.</li> </ul>
<b>Project Locality</b>	Blues Point Road, McMahons Point.
<b>Project Timeframe</b>	Start: 2nd quarter/2022      End: 1 <sup>st</sup> quarter/2023

## NORTH SYDNEY COUNCIL PROJECT PROPOSAL

<b>3. Strategic Fit</b>	
Link to Community Strategic Plan	<p>Direction 1. Our Living Environment Outcome 1.3 Quality Urban Greenspaces Outcome 1.4 Public Open Space and Recreational Facilities and Services Meet Community needs</p> <p>Direction: 2. Our Built Infrastructure Outcome: 2.1 Infrastructure and assets meet community needs Outcome: 2.2 Vibrant centres, public domain, villages and streetscapes Outcome: 2.4 Improve traffic and parking management</p> <p>Direction 3 Our Future Planning Outcome 3.1 Prosperous and Vibrant Economy Outcome 3.4 North Sydney is distinctive with a sense of place and quality design</p> <p>Direction: 4. Our Social Vitality Outcome: 4.1 North Sydney is connected, inclusive, healthy and safe</p>
Link to Management Plan	<p>The project is specifically mentioned in Council's Delivery Program for 2022/23 which links directly to the adopted Community Strategic Plan (CSP). The Project is part of the Blues Point Road Village Centre Public Domain Masterplan adopted by Council in April 2021.</p> <p>2.2.1.04 Implement Blues Point Road, McMahons Point Public Domain Masterplan</p>
Related Policies or Strategies	<ul style="list-style-type: none"> <li>• North Sydney Community Strategic Plan 2022-2030</li> <li>• North Sydney Council Delivery Program 2020/23</li> <li>• Operational Plan and Budget 2022/23</li> </ul>
Related Projects	<ul style="list-style-type: none"> <li>• Burton Street Temporary Closure</li> <li>• Young Street Plaza</li> <li>• King George Street Public Domain Upgrade</li> <li>• Blues Point Road Entry Precinct</li> </ul>

<b>4. Sustainability</b>	
<p><i>Refer to the Sustainability Assessment Trigger (ECM #4787825) to determine whether the project you are proposing requires a Sustainability Assessment. As required complete the Sustainability Assessment Questionnaire (ECM #5020316) to determine potential social, environmental, economic and governance impacts (positive and negative) associated with the proposed project.</i></p>	
Sustainability Assessment	A sustainability assessment will be undertaken as part of the contract document formulation and tender evaluation process.
Dataworks ID Number	TBA
Environmental Factors	<p>The environmental implications of the proposed project are as follows:</p> <p><u>Positive:</u></p> <ul style="list-style-type: none"> <li>• Increase of green spaces including small trees, planting and gardens.</li> <li>• Improve streetlighting with more efficient LED lighting technology.</li> <li>• Traffic noise reduction due to local speed limit reduction.</li> <li>• Traffic speed reduction and increase pedestrian safety.</li> </ul>



## NORTH SYDNEY COUNCIL PROJECT PROPOSAL

<b>Social Factors</b>	The social implications of the proposed project are as follows: <u>Positive:</u> <ul style="list-style-type: none"> <li>• Increase of pedestrian safety by improving footpaths.</li> <li>• Increase of public open space encouraging community interaction.</li> <li>• Improve streetscape amenity and functionality.</li> </ul>
<b>Economic Factors</b>	The economic implications of the proposed project are as follows: <u>Positive:</u> <ul style="list-style-type: none"> <li>• Increase in outdoor dining space for cafes and restaurants.</li> <li>• Increase visitors dwell time by improving amenity and providing resting areas.</li> <li>• Attract new businesses to the area.</li> </ul>
<b>Governance Factors</b>	The governance implications of the proposed project are as follows: <u>Positive:</u> <ul style="list-style-type: none"> <li>• The project is aligned with the Delivery Program and Community Strategic Plan as adopted by Council and identified in item 3. Strategic fit above.</li> </ul>

<b>5. Timeframe and Resources</b>		
<b>Major Tasks</b>	<b>Target Date</b>	<b>Who is Responsible</b>
Appointment of the design consultant Landscape	27/05/2022	Project Manager – Matthew Noonan Engineering and Property Services  Duncan Mitchell – Director of Engineering and Property Services
Development of detailed documentation for tender / construction purposes	01/07/2022	Project Manager – Matthew Noonan Engineering and Property Services  Duncan Mitchell – Director of Engineering and Property Services  Design Consultant Team TBA
Tender Process – for Construction	04/07/2022	Project Manager – Matthew Noonan Engineering and Property Services  Duncan Mitchell – Director of Engineering and Property Services  Design Consultant Team TBA
Construction Tender – Award Contract	29/07/2022	Project Manager – Matthew Noonan Engineering and Property Services  Duncan Mitchell – Director of Engineering and Property Services  Procurement Panel  General Manager  Construction Contractor TBA

## NORTH SYDNEY COUNCIL PROJECT PROPOSAL

Construction commences	08/08/2022	Project Manager – Matthew Noonan Engineering and Property Services  Duncan Mitchell – Director of Engineering and Property Services  Construction Contractor TBA
Temporary 'Pocket Park' Completion and Trial Period Commencement	06/10/2022	Project Manager – Matthew Noonan Engineering and Property Services  Duncan Mitchell – Director of Engineering and Property Services  Specialist Community Consultation Consultants  NSC Communication and Events Team
Trial Period Completion	28/02/2023	Project Manager – Matthew Noonan Engineering and Property Services  Duncan Mitchell – Director of Engineering and Property Services  Specialist Community Consultation Consultants  NSC Communication and Events Team

<b>6. Budget and External Resources</b>	
<b>Expense Item (excluding normal salaries)</b>	<b>Estimate (\$) incl GST</b>
North Sydney Council costs	\$250,000
External costs	The total budget of \$500,000 is inclusive of all estimated external costs
Total	\$500,000
Budget Program (name and number)	Current cost centre 59220.1384

<b>7. Community Engagement</b>
<p><i>Council will undertake community consultation on this project as part of the trial in accordance with Council's Community Engagement protocols.</i></p> <p><i>Refer to the guiding principles of Council's Community Engagement Policy and Community Engagement Protocol (ECM #6417672) to determine appropriate community engagement methods. Contact Council's Community Engagement Coordinator on extension 8181 for assistance.</i></p>
<p><b>Key Stakeholders</b></p> <ul style="list-style-type: none"> <li>• Residents</li> <li>• Community of North Sydney</li> <li>• Blues Point Rd Business owners</li> <li>• TfNSW, Cities and Active Transport, Streets as Shared Spaces Program</li> <li>• Visitors to North Sydney and McMahons Point</li> <li>• Precinct committees</li> <li>• All Staff and the Elected Representatives of North Sydney Council</li> <li>• State and Federal Members of Parliament.</li> <li>• North Sydney Traffic Committee</li> <li>• Regional users</li> </ul>

## NORTH SYDNEY COUNCIL PROJECT PROPOSAL

Level of Impact			
High/Local			
Key Decisions – Stages	Objectives per Step	Spectrum Level	Tools/Techniques
Community Consultation Was undertaken in 2020/21. The project received a high level of community support (67.1% in support). This was reported to Council in 2021.	Gain community support for the project	High	North Sydney Council community engagement protocols
Design Concept	Completed Landscape design concept for the pocket park in accordance with the adopted Masterplan.	Medium	Design Consultant Engagement and Management.  Briefing to Council in concept design.  Report to Council.
Development of detailed documentation for tender / construction purposes – Design Stage	Preparation of detailed documentation for Tender and construction stage	High	Design Consultant Engagement and Management.  Tender Report to Council.
Tender Process – for Construction	Tender the Project and Award contract.	Medium – High	Public Tenders will be advertised in the Local media as per the requirements of the Local Government Act.  Outcome of the Public Tender will be reported up to Council as per the requirements of the Local Government Act.  Outcome will be Published on Councils website.
Construction commences	Construction Program 2 months	Medium-Low	NSC Construction works notification  Regular site meetings  Inform internal and external Stakeholders  Council bulletins  Precinct and streetscape committee updates
'Pocket Park' Trial Period Commences	Trail Period 5 months	High	Inform Key stakeholders  Published on Councils website.

## NORTH SYDNEY COUNCIL PROJECT PROPOSAL

8. Communication Plan	
<i>Communication Plan will be developed for the project by Council's Community and Engagement team. All communication for the project will be accordance with the Funding Agreement from SaSS relevant clauses 4.5 Obligations and 20.1 Notices.</i>	
<b>Key Messages</b>	<ul style="list-style-type: none"> <li>• Advise stakeholders of upcoming constructions works</li> <li>• Provide contact details of Contractor and Project Manager should issues arise</li> <li>• Keep elected representatives informed with progress of the project.</li> </ul>

9. Risk Management and OH&S		
Contact Council's Risk Manager on extension 8125 and/or Council's OHS Advisor 8218 for assistance.		
Risks	Response Strategy	Who is Responsible
Incidents during construction	Work method statements & Risk management plan.	Project Coordinator
Objection of businesses due to construction disruptions	Stage works and liaise with businesses to coordinate access to businesses at all times.	Construction Project Manager
Traffic and Parking	Construction Traffic Management Plan (CTMP)	Project Manager
Design and Contractual Obligations	Council's Standard Contract Documents and Project Management Processes	Project Manager
Risk of Not Proceeding		
<ul style="list-style-type: none"> <li>• Failure to meet the obligations under the executed funding agreement.</li> <li>• Failure to meet Council's objectives for the Blues Point Road Village Centre Masterplan.</li> <li>• Failure to meet the overall objectives as outlined in the Project Plan.</li> <li>• Failure to meet TfNSW expectations (SaSS expectations).</li> <li>• Undermine relationship with Community.</li> </ul>		

10. Project Outputs
<ul style="list-style-type: none"> <li>• Turn the entry to East Crescent Street from Blues Point Road into a trial 'Pocket Park' for 5 months. With the intention to make it a permanent "Pocket Park'.</li> <li>• Undertake a Human Movement Study to analysis the increase the visitation as a result of the trail 'Pocket Park'</li> <li>• Undertake a Traffic and Parking Count to analysis the impacts of the trial on the local road network.</li> <li>• Build a trial public space that encourages social interaction, communication and placemaking</li> <li>• Establish a stronger relationship between Council, businesses, and the community through an improved streetscape.</li> <li>• Create a trial 'Pocket Park' that is innovative, attractive and enjoyable.</li> <li>• Upgrade existing streetscape in this section of Blues Point Rd to the current NSC Public Domain Style Manual and Design Codes.</li> </ul>

11. Project Reporting		
<i>The project reporting will be accordance with the executed funding deed and the required milestone reporting outlined in the Funding Agreement Schedule 1 to 3.</i>		
Report	Frequency	Who is Responsible
Project initialisation	Design Consultant appointed July 2022	NSC Project Manager

## NORTH SYDNEY COUNCIL PROJECT PROPOSAL

Working Group/Internal Stakeholders updates	During detailed design – Fortnightly	NSC Project Manager
	During Construction – Weekly	NSC Director of Engineering and Property Services
	During Occupation – Weekly	
Manager updates	As required	NSC Project Manager
		NSC Director of Engineering and Property Services
MANEX updates	As required	NSC Project Manager
		NSC Director of Engineering and Property Services
Councillor Briefing(s)	Design Concept Layout	NSC Project Manager
	Additional briefings as required	NSC Director of Engineering and Property Services
Report(s) to Council	Tender Report for Award of Construction Contract	NSC Project Manager
	Report to Council after project completion and the results of trial Pocket Park, including community engagement results	NSC Director of Engineering and Property Services
Project finalisation	February 2023	NSC Project Manager
		NSC Director of Engineering and Property Services
Funding Deed Milestone Reporting	As per SaSS Funding Agreement Schedules 1 to 3.	NSC Project Manager

### 12. Project Evaluation

The Project Manager will evaluate project in accordance with this Project Management Plan and the objectives outlined in the SaSS Funding Agreement.


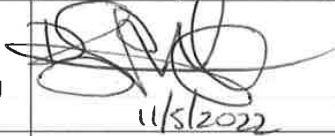
The project will be evaluated as follows:

- Against the milestone reporting dates outlined in the SaSS Funding Agreement.
- Against the agreed Budget.
- Against the agreed Timeframe for Delivery.
- Against the agreed Concept Design.
- As per the Detailed Design Documentation.
- Through reporting to Council.
- Through the results of the Human Movement Study.
- Through the results the Traffic and Parking Counts.
- Through the results of the Community Consultation undertaken over the trial period.
- Pocket Park Implementation and feedback from the community.
- Against Council adopted Delivery Program and adopted Community Strategic plan (KPI's) adopted by Council 2022/23.

The following stakeholders will be engaged to provide feedback on project (as appropriate)

## NORTH SYDNEY COUNCIL PROJECT PROPOSAL

12. Project Evaluation	
Internal: <ul style="list-style-type: none"> <li>• MANEX</li> <li>• Key Internal Stakeholders at Council including Community Engagement, Communications, and OSES Department.</li> <li>• Traffic and Parking Department.</li> <li>• Asset Management.</li> <li>• Project Manager.</li> <li>• Sustainable Transport Project Co-ordinator.</li> <li>• Director EPS.</li> </ul>	External: <ul style="list-style-type: none"> <li>• Local Community and Businesses.</li> <li>• Elected Representatives of Council.</li> <li>• Cities and Active Transport Team (TfNSW).</li> </ul>
Methods to engage stakeholders: <ul style="list-style-type: none"> <li>• Internal – meeting;</li> <li>• External – survey.</li> </ul>	
Recommendations of project evaluation to be reported to: <ul style="list-style-type: none"> <li>• Director EPS.</li> </ul>	

13. Recommendation and Approval			
The Manager to the Project Manager agrees to the project proceeding and the staff and funding is available. Also, in due course, the Manager agrees the project is completed.			
Project Manager: Matthew Noonan		Manager: Duncan Mitchell Director of Engineering and Property Services	 11/5/2022
Date 11/05/22	May 2022	Date	May 2022

14. Distribution	
Distribute copy of completed Project Plan to the following staff via Dataworks	
Manager	May 2022
Team Members	May 2022
Extended MANEX	TBC
Corporate Planning Coordinator	May 2022
Community Engagement Coordinator	May 2022
Manager Communications	May 2022
Risk Manager	May 2022
OHS Advisor	May 2022
Reference Group Members (as appropriate)	TBC