

**Item No:** (automatically generated)

**Subject:** Elkington Park Cottage, Balmain – Possible Conversion to Cafe

**File Ref:**

**Prepared by:** Lyn Gerathy, Manager Property and Commercial Services, Leichhardt

**Approved by:** Matt Phillips, Director Corporate Services

### **SUMMARY**

Council has been investigating the feasibility of adaptive re-use of Elkington Park Cottage as a café, obtaining reports from a number of specialist consultants. There has been a first round of community consultation. The results of the investigation and consultation are outlined in the report. The next steps are awaiting the gazettal of the amendment of the LEP. In the meantime, it is being recommended that feedback be provided to those who took part in the consultation by notifying them of the outcomes of the consultation and other information to be on the website.

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### **RECOMMENDATION:**

1. That the Report be received and noted.
  2. That the results of the first round of community consultation be placed on the website, with the Parking and Traffic Impact Assessment and other supporting documents, and that Council advise this to all who completed a survey or made a submission.
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### **Background**

The former Leichhardt Council had been undertaking a Review of all its real property to identify, amongst other matters:

- *properties and buildings that could provide financial returns, or higher financial returns, to Council with possible and recommended uses,*
- *properties and buildings that could be used to satisfy, or to satisfy better, Council's strategic aims and how,*
- *actions and requirements to implement the recommendations.*

The 2004 Plan of Management for Elkington Park recommends investigation of adaptive re-use of the caretaker's cottage and listed matters to be considered.

The (Leichhardt) Council's Community and Cultural Plan Strategic Objective 2, Outcome 2.2, Strategy 2.2.1, Action 1 is: *Investigate options for providing cafes or other gathering points for families and other people using local parks ...*

At its Ordinary Meeting on 24 March 2015, Leichhardt Council resolved:

1. *In respect of Elkington Park Cottage, Balmain:*
  - a) *that the community be consulted about a proposal for a licensed café, with Dawn Fraser Museum, artist in residence and/or other uses; and*
  - b) *that investigations be continued into the feasibility of a licensed café with other uses at Elkington Park Cottage.*
5. a) *That a business plan be provided, in respect of each of the Elkington Park Cottage and ....., with the reports to Council on public consultation.*
  - c) *These plans are to cover the expected costs to Council, the expected revenues, the time lines for these and the payback period and the rate of return on the funds invested in respect of each property.*

### LRAC

A report the same as this report except for this section was considered at the Leichhardt Local Representation Advisory Committee Meeting on 2 August 2016. The Committee resolved:

*THAT LRAC note the following recommendations:*

1. *That the Report be received and noted.*
2. *That the results of the first round of community consultation be placed on the website, with the Parking and Traffic Impact Assessment and other supporting documents, and that Council advise this to all who completed a survey or made a submission.*
3. *That investigation of this project be pursued further by:*
  - *exhibiting an amended Plan of Management for Elkington Park which more expressly allows the adaptive re-use and for the cottage to be leased for a café, once the LEP is amended – with the draft brought to LRAC prior to exhibition;*
  - *preparing and lodging a Pre-DA application to establish acceptability of the proposed work and the chair numbers and hours of operation, with the Pre-DA supported by the concept plans, a Conservation Management Plan, Heritage Impact Statement, Accessibility Report, Traffic and Parking Impact Assessment and Noise Impact Assessments; and*
  - *finalising the Business Plan.*
4. *That further information be brought to Council on the potentials of the café operating as a social enterprise providing employment pathways of the disadvantaged.*

Officer's Comments:

Paragraphs 1 and 2 are the same as the officer's recommendations.

Paragraph 3 was added by LRAC. It is taken from the Conclusion in this Report. The proposals in the Conclusion are elevated to recommendations for a Council resolution to proceed in the way outlined. This recommended paragraph 3 is supported by the officer who prepared this report.

Paragraph 4 was also added by LRAC. It is noted that it only calls for “further information to be brought to Council on the potential” of the café operating as a social enterprise providing employment pathway for the disadvantaged, however the officer who prepared the report does not support the recommendation. There are a number of concerns.

- It is not entirely consistent with the rationale of the property review, nor with the earlier resolutions of Council to investigate the feasibility of the project and to prepare a Business Case, nor with the added paragraph 3 above calling for finalisation of the business plan, which imply that it is to a commercial or financially feasible project for Council.
- Many cafes fail. It is not in Council's interest, the public interest or the lessees' interest for the cottage to be leased to an inexperienced operator who is unable to fit out the kitchen and unable to make a success of the business. There will be a number of assessment criteria for selection of the lessee operator but the most important are the ability to run a successful café business and the provision of the service to park visitors and other local patrons. Providing employment opportunities for disadvantaged persons should be secondary for a business in a heritage building on community classified public land being a public park.

### **Financial Implications**

There is \$600,000 in the budget for the work to adapt the cottage for use as a cafe. Estimated costs as assessed by an external quantity surveyor are within the budget. There is also sufficient in the budget for the costs for the exhibition of the draft Amended Plan of Management and related matters.

Commercial rent would be received by Council if the cottage were adaptively re-used as a cafe.

### **Other Staff Comments**

Investigations have been undertaken to determine the feasibility of a (licensed) café at Elkington Park Cottage.

The following are attached to this Report:

- Attachment 1: Accessibility Report
- Attachment 2: (Draft) Parking and Traffic Impact Assessment.

The hours covered by the draft Parking and Traffic Impact Assessment are longer and later than is likely to be sought in any DA or traded by an operator. This was to ensure the full possible range was covered. The hours can easily be reduced from those in the preliminary impact assessment but could not be extended without new counts and a new impact assessment. The most likely trading hours are daylight hours. The Report will be finalised once mid-year counts are finalised and there is greater certainty about patron

numbers.

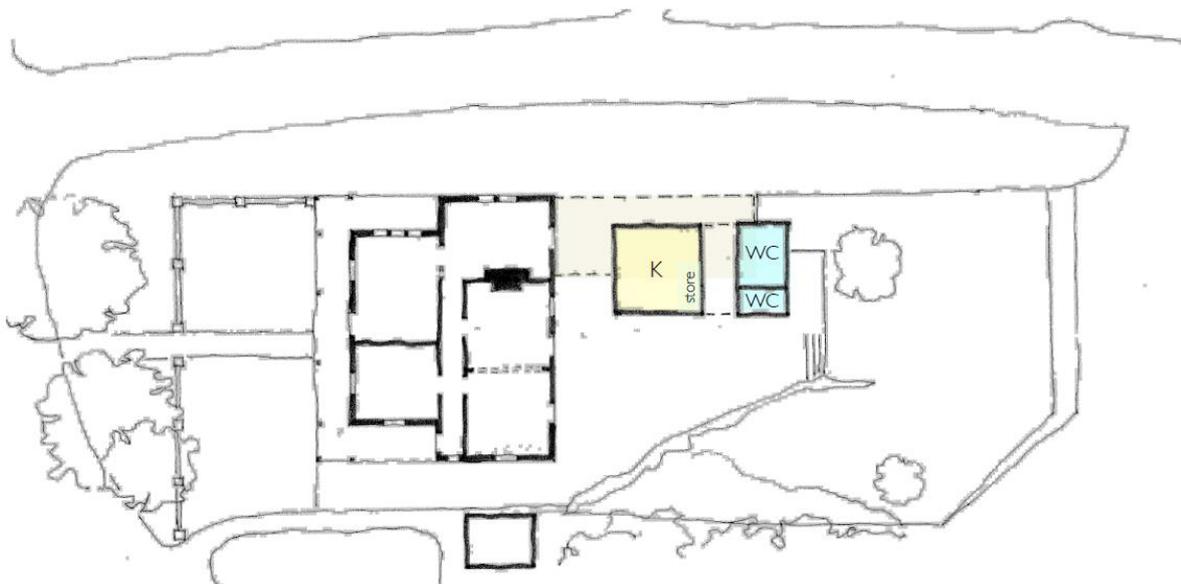
A Conservation Management Plan was obtained and given to the architects who prepared concept plans. A structural engineer's report and a hydraulic services report were obtained and given to the architects and the quantity surveyors. Copies are not attached to this report but are available on request.

Council also commissioned a Market Analysis and Feasibility Report by retail food specialist consultants Brain and Poulter. They looked at location, features, likely demand, trading hours and options, possible revenue and rents. For commercial reasons related to possible future tenders for a lessee, this is being kept confidential at this stage.

### *Concept Plans and Estimated Costs*

Architects were appointed to prepare concept plans having regard to the Conservation Management Plan, the Feasibility Report, the Accessibility Report and other matters.

The architects' report on adaptive re-use for a café with concept plans is attached to this report as Attachment 3. The initially preferred concept is below:



Plan Option A



The features are:

- The current added-on domestic kitchen, bathroom and laundry section, which has asbestos, and the rear lean-to section are demolished. A new kitchen space and an accessible toilet and additional toilet are constructed. They are set back from the original cottage to allow an accessible path of travel from the cottage to the rear courtyard and WCs, and also to allow a side entry to the courtyard. These access ways are to be covered for protection from weather, as usually required by the accessibility consultant. The lessee would be required to fit out the kitchen.
- The heritage cottage is retained except for (1) the conversion of a rear bedroom

window to a doorway to the rear courtyard; (2) the creation of a wall opening between two bedrooms to create a larger space, with this wall opening below the picture rail and with nibs on both sides in accordance with heritage advice so that the original layout is demonstrated; and (3) the doorway between what is now the lounge room and dining room may have to be widened for access.

- The entry through the gate, then to the verandah and then into the front door (where there are currently single steps at each point), and around the side of the cottage to the rear courtyard, will be made accessible.
- There will be some repairs and maintenance, BCA required works and cosmetic works.

The works have been assessed by an external quantity surveyor. The estimate is within the budget for the project, leaving funds for consultation and other matters, but is being kept confidential at this stage in view of possible future tenders for construction.

#### *Accessible Toilets for Park Visitors*

The report writer, Manager Property and Commercial Services Leichhardt, discussed the cottage with the Manager Parks and Assets Leichhardt and the Senior Recreation Planner Leichhardt.

The 2004 Plan of Management for Elkington Park calls for the upgrade of the current toilet block near the playground, or its demolition and rebuilding roughly in the same location. It has been suggested that the converted cottage could also provide an accessible toilet for all park users, enabling the existing park toilet block to be demolished and its site returned to open space. This was included in the brief to architects and is referred to in the architect's report in Attachment 3 but it requires further investigation. It can be looked at during design development but the main issues in respect of the cottage are:

- Whether park visitors are to be allowed to use the toilets only when the café is not operating or also when the café is operating. If the latter, there may be some conflict and other issues.
- Café patrons may access the toilets through the cottage/café. Most park users would reach the WC from the side, from the service drive from Fitzroy Avenue. It is likely that accessible entry from the side driveway can be made compliant near the cottage but less likely that it will comply nearer the WC's as the gradient at this section is too steep. This is one issue that may lead to a conflict referred to in the previous dot point. There would be another accessible route around the other side of the cottage to the rear courtyard but this also may cause conflict with café operators and patrons, raise security issues and may breach the Disability Discrimination Act by requiring park visitors in a wheelchair or with other mobility disabilities, who are not café patrons, to take a roundabout route. These proposals will be discussed further with the architect, engineers and accessibility adviser.
- The Building Code of Australia (BCA) mandates the number of toilets required depending on the number of patrons the café can seat and staff numbers. The concept plan has one unisex accessible WC (which counts as two under the BCA)

and one unisex ambulant WC. Making the toilets available to park visitors may require additional toilets be constructed. One issue with this is whether there is sufficient area. Another issue is the cost not only for the additional toilet/s but of further excavation of the current garden area at a higher level. The additional cost could possibly come from the Open Space budget if there were support for this proposal.

It is recommended that this proposal remain as an option for further investigation during design development.

#### *Access into Elkington Park for Persons with a Disability*

The cottage was inspected by an accessibility consultant who advised that the cottage could be adapted for use as a café, noting it was heritage, subject to certain recommendations being followed.

The consultant asked about access to the cottage. The driveway from the Fitzroy Avenue car parking area is too steep. It was proposed that the pathway starting near the playground, on the White Street side of the park, going across the park to the cottage (“cross path”) would be the preferred access to the adapted cottage. It would be except that the cross path only starts (and ends) at the bins near the playground and doesn’t extend to the park entry.

This brought to light the limits on access into the park. There is no access into the park for unassisted wheelchair users. The pathway from the corner of Glassop and White Street, down to the rotunda, then around the rotunda to meet with the cross path, does not comply as it is too steep. The 2004 Plan of Management for Elkington Park has general objectives about accessibility and refers to extending the cross path to the toilets. The body of the Plan of Management does not specifically refer to access **into** the park but there is a reference in the Action Plan to a link with entry from opposite Tilba Avenue.

There needs to be access into the park itself and then to connect with the cross path. This is not only relevant for access to the cottage. It needs to be looked at even if use of the cottage does not alter. There should be access into the park, to connect with the existing path across the park, and to the playground and to accessible toilets.

The proposal is that a new path be constructed from White Street, approximately opposite Tilba Avenue, to connect to the existing cross path. This new park entry path may be a curved path following the contours of the land or a zig zag or a combination. The cross path could then be upgraded if necessary and extended to the playground and to the toilets (if they are rebuilt in the same location rather than at the cottage.) Perhaps there could be a disabled parking space in White Street near the new park entry.



Regardless of what decisions are made about the cottage, it is proposed that unassisted access into Elkington Park for persons in a wheelchair or with other disabilities now be investigated.

#### *Amendment of the Plan of Management*

The 2004 Plan of Management for Elkington Park states:

*The recommendation of this Plan is to continue the existing use and occupation of the cottage for the short to medium term and undertake a more detailed feasibility study on alternative uses for the cottage. Any change to the use must address significant issues such as:*

- *The impact on parking and vehicular access on the park and surrounding residents.*
- *The financial cost of the conversion and return to council from the operation of any facility.*
- *The provision of maximum benefit to a wide range of park users.*
- *The hours and scope of operation and any lease conditions.*
- *The retention of heritage significance and link to the pool.*

That Plan was adopted in 2004, 12 years ago. The residential use has continued for more than the short to medium term (up to 4 years under the plan). Investigations have now been undertaken on adaptive re-use including the obtaining of a Conservation Management Plan, an accessibility report, a feasibility study for a café which looked at hours of operation, and a preliminary draft traffic and parking impact assessment.

It is thought that the current plan of management already allows adaptive re-use of the cottage for a café and/or other uses. However, it is considered better to amend the Plan of Management to make express provision. The changes make any proposals more transparent. Exhibition of the proposed changes to the Plan of Management would be another round of consultation.

Community land cannot be leased unless there is specific authorisation in the Plan of

Management for a lease to be granted. The 2004 Plan of Management for Elkington Park states on page 66:

*Any future leases and licences or renewal of existing licences for Elkington Park is authorised by this Plan of Management, provided the proposed use is consistent with ... the objectives, zoning, and requirements in the Local Government Act, 1993 ...*

Use as a café satisfies the requirements in the *Local Government Act, 1993* for the use of parts of community land – restaurants and refreshment kiosks being referred to expressly in s.46(5) – and the other matters in this section of the Plan of Management, but it is preferable and probably necessary to have a more specific authorisation in the Plan of Management to lease the cottage for a café and other compatible uses.

It is recommended that changes be made to the Plan of Management to authorise adaptive re-use of the cottage as a café or restaurant and/or other uses and to authorise expressly the cottage being leased for such purposes. Amending the Plan of Management as proposed would authorise the adaptive re- use and lease. It does not require it to happen.

If the Plan of Management is being amended for this purpose, it is thought appropriate to add something more about accessibility into and within the park and options for the location of the new toilets.

The *Local Government Act* states that a Plan of Management can only be amended by a Plan of Management adopted in accordance with the provisions in the Act.

Amendments have been prepared to the Plan of Management as outlined above. These cannot be placed on exhibition until the LEP is amended, as outlined in the following paragraph.

Leichhardt LEP 2000 contained a provision to the effect that, with consent, any development was permitted if authorised by a Plan of Management. This allowed cafes in parks if it was in the Plan of Management. That general provision was not allowed in Leichhardt LEP 2013, and so amendments are being made effectively to allow the same matters, with DA consent, as previously could be authorised by the Plan of Management for a park. Council resolved on 14 April 2015 (C127/15P) to seek a number of amendments to the LEP including to allow cafes and restaurants, with consent, in public recreation areas. These amendments passed through the Gateway determination, were adopted by Council on 10 November 2015 (C549/15P) and are with the Parliamentary Counsel's office.

Once the LEP has been so amended, the draft Amended Plan of Management will be brought to LRAC for approval to be put on public exhibition as required by the *Local Government Act, 1993*.

#### *Next steps*

Because of the time since the original consultation was done during the summer period and the delay in gazettal of the amendment to the LEP, it is thought important to provide some feedback to the residents who took part in the consultation. It is proposed to put the outcomes of the consultation (as outlined below in this report) on the website, together

with the Traffic and Parking Impact Assessment. All those who took part by completing a survey and/or making a submission would be directly notified. The information would include advice about the proposed amendment of the draft Amended Plan of Management and that they would be notified when it went on exhibition.

A Pre- DA application can be prepared proposing chair numbers and hours of operation informed by and supported by the Accessibility advice, Feasibility Report, Conservation Management Plan, Heritage Impact Statement, Traffic and Parking Impact Assessment and a Noise Impact Assessment, although subject to gazettal of the amendment to the LEP. This Pre-DA is to obtain another level of advice on the general acceptability of the proposals from the planning aspect. The additional costs are minimal as most of the work has already been done.

Updated market rent assessments and (if necessary) updated construction cost estimates will then be obtained. This will allow finalisation of the Business Plan.

### **Public Consultation**

There was community consultation about the possible adaptive re-use of the caretaker's cottage in Elkington Park. The consultation was from 1 December 2015 to 31 January 2016. This period included the Christmas and New Year period and school holidays, but it was for 2 months and in this case, the initial consultation (like the parking and traffic study) was thought to be better done in the summer and including the school holiday period when there would likely be a larger attendance at the Baths.

Notification of the consultation included:

- being on Council's web-site
- posters at Dawn Fraser Baths and various locations in Elkington Park as well as the Administration Centre, Balmain Library and various Council noticeboards in Balmain, Balmain East, Birchgrove and Rozelle
- advertisements in The Courier
- references in Council's weekly e-News
- direct notification by email to the local Precinct and a representative of the Friends of Dawn Fraser Baths and
- individual addressed letters posted to owners and occupiers of properties in Fitzroy Avenue, Punch Street, Gow Street, Gow Lane, part of Birchgrove Road, Addison Street, part of Hampton Street, part of Glassop Street, White Street, Tilba Avenue, Carieville Street, Carieville Lane and Phoebe Street.

The notifications advised that there was information on Council's web site with a link to a survey and that submissions were invited.

The on-line survey asked the following questions:

- 1 Do you support Elkington Park Caretaker's Cottage being adapted for a use which allows public access to the cottage?
- 2 Do you support a café in Elkington Park Cottage?
- 3 Please explain why you do or do not support a café at Elkington Park or why you

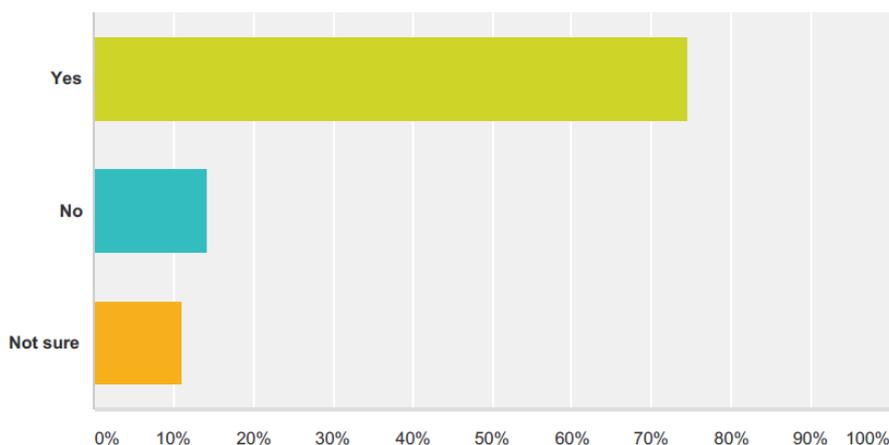
are unsure.

- 4 Do you support a Dawn Fraser Museum in Elkington Park Cottage?
- 5 Do you support one or more of the rooms in Elkington Park Cottage being made available to local artists for, say, 3 months at a time?
- 6 Do you have any suggestions for other uses for Elkington Park Cottage?
- 7 Please ask any questions or make any other comments or submissions you wish about the cottage, its use and its future.

There were 63 responses to the on-line surveys although not all responded to all questions. The results are set out below.

**Q1 Do you support Elkington Park Caretaker's Cottage being adapted for a use which allows public access to the cottage?**

Answered: 63 Skipped: 0

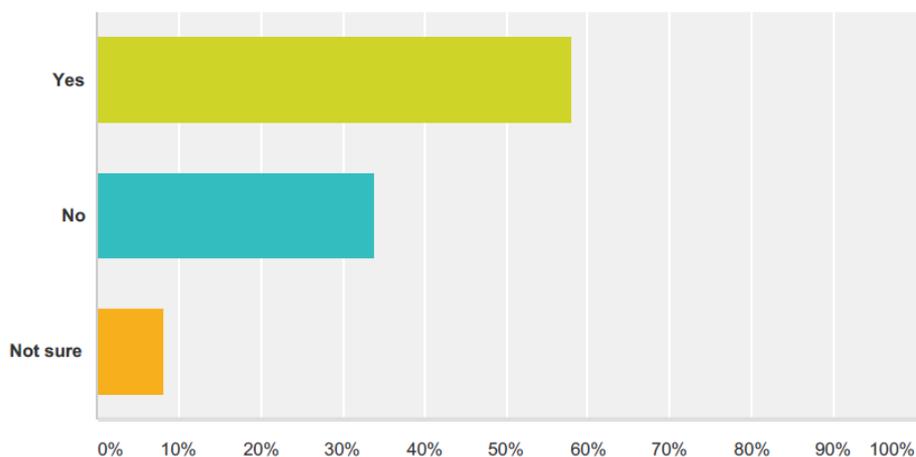


Of the 63 responders:

- 47 said yes, 7 said they were not sure and 9 said no.
- 74.60% said yes, 11.11% were not sure and 14.29% said no.

## Q2 Do you support a café in Elkington Park Cottage?

Answered: 62 Skipped: 1



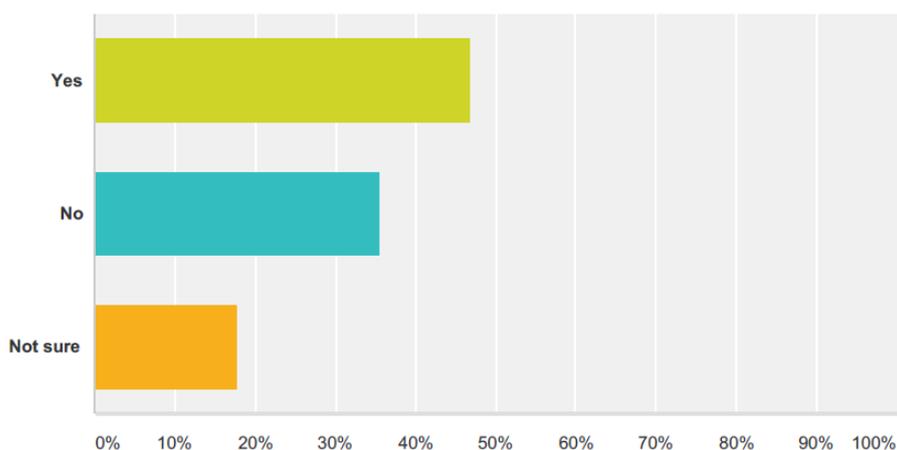
Of the 62 responders:

- 36 said yes, 5 were unsure and 21 said no.
- 58.06% said yes, 8.06% were not sure and 33.87% said no.

Note however that one person who answered no to this question 2 then made a comment under question 3 which did indicate support for a cafe.

## Q4 Do you support a Dawn Fraser Museum in Elkington Park Cottage?

Answered: 62 Skipped: 1

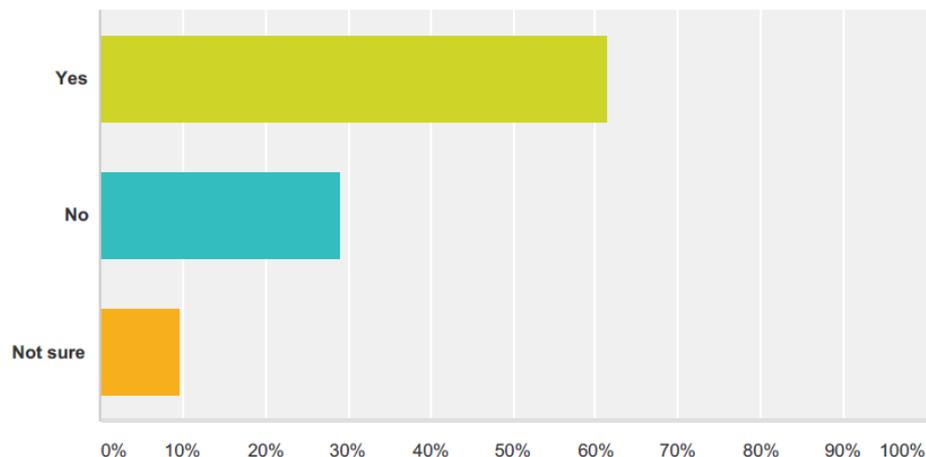


Of the 62 responders:

- 29 said yes, 11 were unsure and 22 said no.
- 46.77% said yes, 17.74% were not sure and 35.48% said no.

**Q5 Do you support one or more of the rooms in Elkington Park Cottage being made available to local artists for, say, 3 months at a time?**

Answered: 62 Skipped: 1



Of the 62 responders:

- 38 said yes, 6 were unsure and 18 said no.
- 61.29% said yes, 9.68% were not sure and 29.03% said no.

**Question 3 Please explain why you do or do not support a café at Elkington Park or why you are unsure.**

**Question 6 Do you have any suggestions for other uses for Elkington Park Cottage?**

**Question 7 Please ask any questions or make any other comments or submissions you wish about the cottage, its use and its future.**

Attached to this report, as Attachment 4, is a full list of the responses to questions 3, 6 and 7 of the survey and the submissions received separately, in some cases with officer's comments. As is usual with consultations and matters on exhibition, those opposed to a proposal were more likely to give an explanation or make a longer comment or submission than those who support the proposal. The comments are summarised below.

People in support of a café at Elkington Park Cottage said there wasn't now a café, there was a lack of outdoor venues, this was a pleasant setting for a café, it is a better community use of the building, it's popular and a café would be nice, it's close to a good recreation area, it is a good socially positive redeployment of the asset, it is a beautiful setting and would be a lovely place to meet friends, a lovely meeting point and a good use of the building, there are Balmain cafes but not in a park setting, it would be beneficial for park users and for locals to stroll to, it would provide the large number of park visitors and dog walkers a meeting place to socialise and entertain and provide the council with a revenue asset, nice to have a cafe away from any busy roads and enjoy the lush surroundings, best way for the whole community to enjoy the building.

People who do not support a café raised the following issues.

- There was a lot of concern about the effect of a café on traffic and parking. This was also raised by several of those who answered “not sure” to the question.

*Council commissioned a Parking and Traffic Impact Assessment. Parking counts were done in the school holidays and after the school holidays on selected hot days. It was thought that this is when there would be most visitors to Dawn Fraser Baths and so when there would be the greatest parking demand and traffic. A copy of the draft Parking and Traffic Impact Assessment is attached to this report, as Attachment 2. It covers longer hours than is proposed to ensure the full possible range is included. Hours can easily be reduced but if sought to be extended, new counts and a new impact assessment is required. If Council proceeds to a development application, this impact assessment will be finalised and used to inform the preparation of and support the DA.*

- Several people thought there were already too many cafes in Balmain.
- There is a kiosk in the Baths.
- There was an objection to commercialisation of the park.
- Others thought a café was not suitable for the passive recreation and quiet nature of this particular park; that a café brought noise and rubbish.
- A cafe in this park will change the nature of what is currently a very well-used and much-appreciated public space for everybody (e.g. it will discourage picnic groups, ball games, dog-walking).

*Any café would be in the cottage and its fenced yard which is currently tenanted and not available for use by the public. There would be no loss of public open space available for picnics, ball games and dog walking.*

- Viability of a café business was questioned by some opposed and some who were unsure about a cafe. One said a café was not supported as it would require Council subsidy such as cheap rent and Council should promote a restaurant which would enable a viable business; the market should decide; and Council should look at other successful venues.

*A café and a restaurant are both listed together in paragraph (a) of “food and drink premises” under Leichhardt LEP 2013 so there is no difference in planning terms. Subject to DA, the market would decide the nature of the business and what was offered at different times and different days. Council did obtain advice from external specialist consultants in the area of retail sale of food and beverages including restaurants and cafes. This advice was not exhibited during the consultation for commercial reasons.*

- There is a large amount of support for the cottage remaining a residence for a council employee who would provide passive security and be available to respond to

incidents in the Park and the Baths.

*Whilst the benefits of passive security are noted and residential use of a cottage on community land is permitted by the Local Government Act, 1993 and supported on heritage grounds, this use does not allow public access to the heritage cottage. It is a subsidised private use of a public asset with the caretaker having no specific duties.*

In response to question 6 about other uses:

- Some repeated their support for a café, artists in residence or caretaker's residence.
- Others suggested that rooms be available for hire for various book clubs, mothers' groups, community groups etc.

*The Community Facilities Review (2011) stated that there are sufficient rooms and halls for hire (although Leichhardt suburb did not have a community or neighbourhood centre).*

*Noting the cottage floor plan and concept plans for a cafe, a café may provide a meeting place for some groups and the café operator may be willing to hire a room or reserve all tables in a room for groups of patrons.*

#### *Summary of Preliminary Consultation:*

Of the respondents to the on-line survey:

- 74% support an adaptive re-use of the cottage which will allow public access
- 58% support a café and another 8% were unsure
- 46% support a Dawn Fraser Museum being included
- 61% support artists in residence being included

As three-quarters of respondents support an adaptive re-use which allows public access and more than half support a café, it is recommended that Council continue to look at this. The major issues raised were the impact on parking demand and traffic volume and the desire for a resident "caretaker."

There is support for artists in residence. This may impact on the viability of the cottage for a café and there may be security issues with shared use. Areas in Dawn Fraser Baths are used annually in the winter months (when the pool is closed to the general public) for the artists in residence programme known as "Winter Dawn." Whites Creek Cottage is considered better for artists in residence than Elkington Park Cottage. (Whites Creek Cottage was looked at as part the Property Review and will be reported separately.)

As less than half support a Dawn Fraser Museum, it is proposed not to pursue this for Elkington Park Cottage. Areas within the Baths themselves could be looked at in connection with this if there were demand for it. There are already archives held at the Baths.

## **Conclusion**

The public consultation supported the heritage cottage being used in a way which allowed public access. A majority supported it being a café. In view of the time since, it is recommended that the outcomes of the first round of consultation be given to those who took part, by directly notifying them of the outcomes of the consultation and other information being put on the website.

It is proposed that investigation of this project be pursued further by:

- exhibiting an amended Plan of Management for Elkington Park which more expressly allows the adaptive re-use and for the cottage to be leased for a café, once the LEP is amended – with the draft brought to LRAC prior to exhibition;
- preparing and lodging a Pre-DA application to establish acceptability of the proposed work and the chair numbers and hours of operation, with the Pre-DA supported by the concept plans, a Conservation Management Plan, Heritage Impact Statement, Accessibility Report, Traffic and Parking Impact Assessment and Noise Impact Assessments; and
- finalising the Business Plan.

## **ATTACHMENTS**

1. Accessibility Report
2. Draft Parking and Traffic Impact Assessment
3. Concept Plans and Architect's Report on Adaptive Re-Use
4. Comments and submissions made during the community consultation