



WAVERLEY
COUNCIL

EXTRAORDINARY COUNCIL MEETING

An Extraordinary Meeting of WAVERLEY COUNCIL will be held at the Waverley Council Chambers,
Cnr Paul Street and Bondi Road, Bondi Junction at:

5.00PM, MONDAY 23 MAY 2016

A handwritten signature in black ink, appearing to read 'Peter Brown', written in a cursive style.

Peter Brown
General Manager

Waverley Council
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AGENDA

PRAYER AND ACKNOWLEDGEMENT OF INDIGENOUS HERITAGE

The Mayor will read the following Opening Prayer and Acknowledgement of Indigenous Heritage:

“God, we pray for wisdom to govern with justice and equity. That we may see clearly and speak the truth and that we work together in harmony and mutual respect. May our actions demonstrate courage and leadership so that in all our works thy will be done. Amen.

Waverley Council respectfully acknowledges our Indigenous heritage and recognises the ongoing Aboriginal traditional custodianship of the land which forms our Local Government Area”.

1. Apologies/Leaves of Absence

2. Declarations of Pecuniary and Non-Pecuniary Interests

3. Addresses to Council by Members of the Public

4. Notices of Motion

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| CM/4.1/16.05E RESCISSION MOTION - CM/7.4/16.05 - Tender Evaluation Report - Bondi Park Picnic Shelters | 2 |
| CM/4.2/16.05E RESCISSION MOTION - CM/8.2/16.05 - Amalgamations - Submission to Minister for Local Government about current councillors forming interim committee | 4 |
| CM/4.3/16.05E RESCISSION MOTION - CM/8.5/16.05 - Poll on Merger..... | 6 |
| CM/4.4/16.05E RESCISSION MOTION - CM/8.6/16.05 – Minister’s Guidelines..... | 8 |
| CM/4.5/16.05E RESCISSION MOTION - CM/8.12/16.05 - Bondi Pavilion Upgrade – Breakdown of costing components for the \$38 million allocation | 10 |

5. Closed Session12

The following matter is proposed to be dealt with in Closed Session and has been distributed to Councillors separately with the Agenda:

CM/5.1/16.05E CONFIDENTIAL REPORT - Affordable Housing - Mou Bridge, Prospect for Purchase, and Other options

6. Resuming in Open Session14

7. Meeting Closure

NOTICE OF MOTION CM/4.1/16.05E



Subject: RESCISSION MOTION - CM/7.4/16.05 - Tender Evaluation Report - Bondi Park Picnic Shelters

TRIM No.: A15/0436

Submitted by: Councillor Betts
Councillor Mouroukas
Councillor Goltsman

MOTION:

That the Rescission Motion be adopted.

Background

This matter was last considered by Council at its adjourned meeting of 17 May 2016. Subsequently, the following Notice of Rescission was submitted by Crs Betts, Mouroukas and Goltsman:

“We the undersigned Councillors wish to rescind the following Council decision adopted at the Council Meeting on Tuesday 17 May 2016:

CM/7.4/16.05 – Tender Evaluation Report – Bondi Park Picnic Shelters.

Councillors Betts, Mouroukas and Goltsman”.

BELOW IS THE MINUTE EXTRACT FROM THE COUNCIL MEETING HELD ON 17 MAY 2016:

CM/7.4/16.05 Tender Evaluation Report - Bondi Park Picnic Shelters

MOTION (WITHDRAWN)

Mover: Cr Clayton
Seconder: Cr Betts

That Council:

1. Treats the Evaluations of Findings report attached to Council’s file as confidential as it contains information specified in section 10A(2)(c) of the *Local Government Act 1993*.
2. Enters into a contract under clause 178 of the *Local Government (General) Regulation 2005* with Fleetwood Urban Pty Ltd for Principal Construction services for the Bondi Park Picnic Shelters.
3. In accordance with clause 179 of the *Local Government (General) Regulation 2005* notifies unsuccessful tenderers of the decision.

MOTION / DECISION

Mover: Cr Wakefield
Seconder: Cr Guttman-Jones

That the matter be deferred so detailed schematic plans and detailed costing can be provided to Councillors for their consideration, in addition to the information and image already distributed to Councillors in the April 2016 Information Bulletin, and that the same information be distributed to the Waverley precincts for consultation and feedback.

Division

For the Motion: Crs Clayton, Guttman-Jones, Masselos, Strewe, Wakefield and Wy Kanak.

Against the Motion: Crs Betts, Burrill, Goltsman, Kay and Mouroukas.

**NOTICE OF MOTION
CM/4.2/16.05E**

Subject: RESCISSION MOTION - CM/8.2/16.05 - Amalgamations -
Submission to Minister for Local Government about
current councillors forming interim committee

TRIM No.: A16/0054

Submitted by: Councillor Betts
Councillor Mouroukas
Councillor Goltsman

MOTION:

That the Rescission Motion be adopted.

Background

This matter was last considered by Council at its adjourned meeting of 17 May 2016. Subsequently, the following Notice of Rescission was submitted by Crs Betts, Mouroukas and Goltsman:

"We the undersigned Councillors wish to rescind the following Council decision adopted at the Council Meeting on Tuesday 17 May 2016:

CM/8.2/16.05 – Amalgamations – Submission to Minister for Local Government about current councillors forming interim committee

Councillors Betts, Mouroukas and Goltsman".

BELOW IS THE MINUTE EXTRACT FROM THE COUNCIL MEETING HELD ON 17 MAY 2016:

**CM/8.2/16.05 Amalgamations - Submission to Minister for Local Government about
current councillors forming interim committee**

MOTION / DECISION

Mover: Cr Wakefield
Seconder: Cr Masselos

That Council:

1. Notes the Minister for Local Government's recent request for Expressions of Interest from Councillors in regard to future merged councils.
2. Makes a submission to the Minister for Local Government stating that:
 - (a) Council believes that community outcomes would be best served by the current Councillors forming a "committee of the whole" as an interim arrangement to oversee any merger.
 - (b) This Interim Committee would operate until the next Local Government Election.

Division

For the Motion: Crs Clayton, Guttman-Jones, Masselos, Strewé, Wakefield and Wy Kanak.

Against the Motion: Crs Betts, Burrill, Goltsman, Kay and Mouroukas.

**NOTICE OF MOTION
CM/4.3/16.05E**

Subject: RESCISSION MOTION - CM/8.5/16.05 - Poll on Merger

TRIM No.: A16/0054

Submitted by: Councillor Betts
Councillor Mouroukas
Councillor Goltsman

MOTION:

That the Rescission Motion be adopted.

Background

This matter was last considered by Council at its adjourned meeting of 17 May 2016. Subsequently, the following Notice of Rescission was submitted by Crs Betts, Mouroukas and Goltsman:

“We the undersigned Councillors wish to rescind the following Council decision adopted at the Council Meeting on Tuesday 17 May 2016:

CM/8.5/16.05 – Poll on Merger

Councillors Betts, Mouroukas and Goltsman”.

BELOW IS THE MINUTE EXTRACT FROM THE COUNCIL MEETING HELD ON 17 MAY 2016:

CM/8.5/16.05 Poll on Merger**MOTION / DECISION**

Mover: Cr Wakefield
Seconder: Cr Strewe

That Council:

1. Undertakes a Poll as defined in the *Local Government Act 1993* of all eligible voters as soon as practical.
2. The wording of the Poll to be “Do you want Waverley Municipal Council to amalgamate with another Council?”
3. Writes to the Premier and the relevant Boundaries Commission Delegate to inform them of our decision.
4. Writes to the Hon Malcolm Turnbull MP, Member for Wentworth and Prime Minister and the Australian Electoral Commission to ask them about the facility to hold a poll on this issue at the same time as the Federal Election.

Division

For the Motion: Crs Clayton, Guttman-Jones, Masselos, Strewé, Wakefield and Wy Kanak.

Against the Motion: Crs Betts, Burrill, Goltsman, Kay and Mouroukas.

**NOTICE OF MOTION
CM/4.4/16.05E**

Subject: RESCISSION MOTION - CM/8.6/16.05 – Minister's Guidelines

TRIM No.: A16/0054

Submitted by: Councillor Betts
Councillor Mouroukas
Councillor Goltsman

MOTION:

That the Rescission Motion be adopted.

Background

This matter was last considered by Council at its adjourned meeting of 17 May 2016. Subsequently, the following Notice of Rescission was submitted by Crs Betts, Mouroukas and Goltsman:

"We the undersigned Councillors wish to rescind the following Council decision adopted at the Council Meeting on Tuesday 17 May 2016:

CM/8.6/16.05 – Minister's Guidelines

Councillors Betts, Mouroukas and Goltsman".

BELOW IS THE MINUTE EXTRACT FROM THE COUNCIL MEETING HELD ON 17 MAY 2016:

CM/8.6/16.05 Minister's Guidelines**MOTION / DECISION**

Mover: Cr Wakefield
Seconder: Cr Masselos

That Council:

1. Provides detailed information to the Minister for Local Government to inform him of the Bondi Pavilion proposal. This information will be made available to all Councillors and the public.
2. Seeks clarification from the Minister whether the Bondi Pavilion proposal is consistent with the Guidelines "Council Decision Making During Merger Proposal Periods" issued on 18th December 2015. These guidelines, issued under Section 23A of the Act, provide guidance to Councils which are the subject of merger proposals on the appropriate exercise of their functions during the period in which a merger proposal is under consideration. Waverley Council is subject to a merger proposal and is therefore required to consider these Guidelines when exercising its functions.

Under the Guidelines, Councils need to act in the best interests of their community and for the purposes of meeting the needs of that community. Councils should not make decisions that needlessly impose an avoidable cost on a new (merged) Council.

The Guidelines require Councils to ensure that they do not make decisions during the merger proposal period which would (inter alia) impede the operational effectiveness of a new Council by:

- Making significant and/or ongoing financial commitments that will be binding on a new Council;
- Making other significant undertakings or commitments that will be binding on a new Council; and
- Making decisions that are designed to limit the flexibility or discretion of a new Council;

3. Invites Woollahra and Randwick Council to make submissions to the Minister in regard to the Bondi Pavilion proposal.
4. Reports on the advice provided by the Minister.

Division

For the Motion: Crs Clayton, Guttman-Jones, Masselos, Strewe, Wakefield and Wy Kanak.

Against the Motion: Crs Betts, Burrill, Goltsman, Kay and Mouroukas.

NOTICE OF MOTION CM/4.5/16.05E



Subject: RESCISSION MOTION - CM/8.12/16.05 - Bondi Pavilion Upgrade – Breakdown of costing components for the \$38 million allocation

TRIM No.: A15/0272

Submitted by: Councillor Betts
Councillor Mouroukas
Councillor Goltsman

MOTION:

That the Rescission Motion be adopted.

Background

This matter was last considered by Council at its adjourned meeting of 17 May 2016. Subsequently, the following Notice of Rescission was submitted by Crs Betts, Mouroukas and Goltsman:

“We the undersigned Councillors wish to rescind the following Council decision adopted at the Council Meeting on Tuesday 17 May 2016:

CM/8.12/16.05 – Bondi Pavilion Upgrade – Breakdown of costing components for the \$38 million allocation

Councillors Betts, Mouroukas and Goltsman”.

BELOW IS THE MINUTE EXTRACT FROM THE COUNCIL MEETING HELD ON 17 MAY 2016:

CM/8.12/16.05 Bondi Pavilion Upgrade – Breakdown of costing components for the \$38 million allocation

MOTION / DECISION

Mover: Cr Masselos
Seconded: Cr Guttman-Jones

That:

1. The detailed cost estimate be updated and provided to Councillors under confidential cover, with the detailed cost estimate also providing information in relevant categories such as:
 - i. The main Pavilion building renovation.
 - ii. The construction and furnishing of the multi-purpose theatre including dressing rooms and covered walkway to access theatre.
 - iii. The garden and community spaces and amphitheatre.
 - iv. Itemisation and costing of all other components not highlighted in i, ii, and iii above.
 - v. All existing available reports are issued to Council immediately. Any reports requiring commissioning be initiated after 10 am on 18 May 2016.

2. Council notes that a detailed quantity surveyor cost estimate for the Bondi Pavilion Upgrade and Conservation Project by Altus Page Kirkland was provided to councillors under confidential cover on 29 February 2016.
3. Details all assessments undertaken of the Bondi Pavilion's existing structural integrity, geotechnical reports, demolition reports and any other relevant reports that are material to the renovation and costing of the Pavilion.
4. Councillors are provided with access to all technical reports completed so far that are relevant to the design and costing of the Bondi Pavilion Upgrade and Conservation Project.

Division

For the Motion: Crs Clayton, Guttman-Jones, Masselos, Strewe, Wakefield and Wy Kanak.

Against the Motion: Crs Betts, Burrill, Goltsman, Kay and Mouroukas.

CLOSED SESSION

CM/5/16.05E



Subject: Moving into Closed Session

Author: Peter Brown, General Manager

RECOMMENDATION:

That:

1. Council moves into closed session to deal with the matters listed below, which are classified as confidential under the provisions of Section 10A (2) of the Local Government Act 1993 for the reasons specified:

CM/5.1/16.05E CONFIDENTIAL REPORT - Affordable Housing - Mou Bridge, Prospect for Purchase, and Other options

This matter is considered to be confidential in accordance with Section 10A(2)(c) of the Local Government Act, and the Council is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

2. Pursuant to Section 10A(1), 10(2) and 10A(3) of the Local Government Act 1993, the media and public be excluded from the meeting on the basis that the business to be considered is classified confidential under the provisions of Section 10A(2) of the Local Government Act 1993.
3. The correspondence and reports relevant to the subject business be withheld from the media and public as provided by section 11(2) of the Local Government Act 1993.

Introduction/Background

In accordance with section 10A(2) of the Act, a Council may close part of its meeting to deal with business of the following kind:

- (a) personnel matters concerning particular individuals.
- (b) personal hardship of any resident or ratepayer.
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.
- (d) commercial information of a confidential nature that would, if disclosed:
 - i prejudice the commercial position of a person who supplied it: or
 - ii confer a commercial advantage on a competitor of Council;
 - iii reveal a trade secret.
- (e) information that would, if disclosed, prejudice the maintenance of law.
- (f) matters affecting the security of Council, Councillors, Council staff and Council property.
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.
- (i) alleged contraventions of any Code of Conduct requirements applicable under Section 440.

It is my opinion that the business listed in the recommendation is of a kind referred to in section 10A(2) of the Local Government Act 1993 and, under the provisions of the Act and the Local Government (General) Regulation 2005, should be dealt with in a part of the meeting that is closed to members of the public and the media.

Pursuant to section 10A(4) of the Act and clause 252 of the Local Government (General) Regulation, members of the public may make representations to the meeting immediately after the motion to close part of the meeting is moved and seconded, as to whether that part of the meeting should be closed.

**RESUMING IN OPEN SESSION
CM/6/16.05E**



Subject: Resuming in Open Session
Author: Peter Brown, General Manager

RECOMMENDATION:

That Council resumes in Open Session.

Introduction/Background

In accordance with Clause 253 of the Local Government (General) Regulation 2005, when the meeting resumes in open session the Chair will announce the resolutions made by Council, including the names of the movers and seconders, while the meeting was closed to members of the public and the media.