



W A V E R L E Y  
COUNCIL

## EXTRAORDINARY COUNCIL MEETING

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

**6.30PM, TUESDAY 2 AUGUST 2016**

Peter Brown  
**General Manager**

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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. Reports

CM/4.1/16.08E Gilgandra Reserve Zoning Assessment .....2

#### 5. Notices of Motion

CM/5.1/16.08E Rescission Motion - Council Meeting 19 July 2016 - CM/8.7/16.07 - Bondi Pavilion Plan of Management .....7

CM/5.2/16.08E Rescission Motion - Council Meeting 19 July 2016 - CM/8.9/16.07 - Bondi Pavilion Heritage .....8

CM/5.3/16.08E Rescission Motion - Council Meeting 19 July 2016 - CM/9.2/16.07 - Establishment of Councillor Transition Reference Group .....9

#### 6. Closed Session ..... 11

The following matters are proposed to be dealt with in Closed Session and have been distributed to Councillors separately with the Agenda:

CM/6.1/16.08E CONFIDENTIAL REPORT - Purchase of 21-23 Niblick Street North Bondi and Licence Agreement for 27-29 Gilgandra Road, North Bondi

#### 7. Resuming Open Session ..... 13

#### 8. Meeting Closure

**REPORT**  
**CM/4.1/16.08E**

**Subject:** Gilgandra Reserve Zoning Assessment

**TRIM No.:** PP-2/2015

**Author:** Angela Hynes, Acting Principal Strategic Planner

**Director:** Peter Monks, Director Waverley Futures

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**RECOMMENDATION:**

That Council:

1. Prepares a Planning Proposal to amend Waverley Local Environment Plan 2012 to:
  - (a) Rezone 27-29 Gilgandra Road, North Bondi (Gilgandra Reserve) from R1 Low Density Residential to RE1 Public Recreation.
  - (b) Note 27-29 Gilgandra Road, North Bondi on the Land Reservation Acquisition Map.
2. Requests the Department of Planning and Environment to amend the Gateway Determination for 21-23 Niblick Street, North Bondi to include the rezoning of 27-29 Gilgandra Road, North Bondi.
3. Requests the Department of Planning and Environment to grant to Council the authority to exercise the delegations issued by the Minister under Section 59 of the EP&A Act 1979 in relation to the making of the amendment.

**1. Executive Summary**

This report seeks Council's resolution to amend the zoning of Gilgandra Reserve from R2 Low Density Residential to RE1 Public Recreation and to note the site on the Land Reservation Acquisition Map of Waverley Local Environmental Plan 2012 in order to ensure the land remains available to the local community as a local park.

**2. Introduction/Background**

In late 2014 Council was made aware that Sydney Water proposed to dispose of 21-23 Niblick Street North Bondi. While the site was licensed to Council for some 50 years and used by the local community as a local park, the site is owned by Sydney Water and zoned R2 Low Density Residential. In order to protect the site for the local community, Council resolved on 17<sup>th</sup> March 2015 to, among other things, negotiate with Sydney Water for the purchase of the site and to rezone the land to RE1 Public Recreation.

Council also requested an audit be undertaken of all reserves used by the community as open space. The purpose of the audit was to identify sites that are considered to be at risk, especially where a property is not under the control of the Council and may be subject to disposal for redevelopment purposes, similar to that proposed by Sydney Water for Niblick Street. Attachment 1 includes land zoned for open space within Waverley.

The Audit identified that the only parcel of land currently used as open space but currently zoned residential is Gilgandra Reserve which is also owned by Sydney. All other open space areas are either appropriately zoned as open space or in accordance with their ownership or owned by the Council.

Council is currently processing a Planning Proposal for a rezoning of 21-23 Niblick Street, North Bondi from R2 Low Density Residential to RE1 Public Recreation. A Gateway Determination allowing exhibition of that Planning Proposal was issued on 19 May 2015. Council has awaited finalisation of acquisition of the land before progressing the rezoning.

Council has now concluded negotiations with Sydney Water to purchase Niblick Street Reserve and license Gilgandra Reserve. The details of these negotiations are to be considered as the subject of a separate report to Council at this meeting.

### 3. Relevant Council Resolutions

Council or Committee Meeting and Date	Minute No.	Decision
17 March 2015	CM/10.4/15.03	<ol style="list-style-type: none"> <li>1. This report be treated as confidential in accordance with section 11(3) of the Local Government Act 1993, as it relates to a matter specified in section 10A(2) of the Local Government Act 1993;</li> <li>2. Council notes the termination of the license for playground use at 21 Niblick Street North Bondi by Sydney Water became effective 31 December 2014 and Sydney Water proposes to sell the site.</li> <li>3. Council notes that the remediation of contaminates on the site by Sydney Water has been delayed for a two month period whilst further discussion with Council occurs as to the extent of the remediation and whether two trees that Sydney Water have identified for removal can be saved.</li> <li>4. Council approves to continue to negotiate for the purchase of the property to the value of the NSW Land &amp; Property Valuer report of July 2014.</li> <li>5. The Mayor and General Manager be authorized to deal with any further matters arising out of the proposed remediation process and potential purchase of the land.</li> <li>6. The Council initiates an amendment to the Waverley Local Environment Plan 2012 by proposing to rezone 21-23 Niblick Street, North Bondi from R2 Low Density Residential to RE1 Public Recreation and amending the Land Reservation Land Acquisition May accordingly.</li> </ol>

### 4. Discussion

Gilgandra Reserve is a small parcel of land (743m<sup>2</sup>) owned by Sydney Water which has been used as a park by the Waverley Community for many years. The site, identified in Attachment 2, is located at 27 and 29 Gilgandra Road, North Bondi and is surrounded by low density residential development.

Prior to the creation of Waverley Local Environmental Plan (LEP) 2012, the land was zoned Special Uses 5(a) Sydney Water under Waverley LEP 1996. Directions from the Department of Planning and Environment (DP&E) required the land be zoned in accordance with the zoning of neighbouring properties and as such the land is currently zoned R2 Low Density Residential under WLEP 2012.

The importance of open space to the health and wellbeing of local communities cannot be overstated. There are numerous strategies from the NSW State Government, International organisations and Council's own 'Recreation Needs Study 2008' which emphasise the importance of protecting and enhancing open space supply. This is particularly relevant as the large number of visitors to Waverley place pressure on our open space resources. The significant volume of visitors to Waverley can also make open space less attractive for members of the community, restricting the recreation space they feel comfortable visiting at certain times. This reinforces the need for smaller neighbourhood spaces for the local community to enjoy.

While Gilgandra Reserve is currently used as a local park, being owned by Sydney Water and zoned residential does make it vulnerable to being sold off and lost to the local community. Council can take the initiative to rezone the land R1 Public Recreation and note it on the Land Reservation Acquisition Map to ensure it always remains available to the local community.

Council is currently processing the Planning Proposal for a similar rezoning at 21-23 Niblick Street, North Bondi. Should Council decide to proceed with a rezoning of Gilgandra Reserve, then it would be more efficient and less confusing for the local community to request the DP&E to amend the Gateway Determination to include Gilgandra Reserve. This will allow both sites to be publically exhibited at the same time under the one planning amendment.

## **5. Relationship to Waverley Together 3 & Delivery Program 2013-17**

The relationship to *Waverley Together 3* and *Delivery Program 2013-17* is as follows:

Direction: C7 Health and quality of life are improved through a range of recreation and leisure opportunities.

Strategy: C7a Retain, protect and improve the quality, flexibility and useability of parks, reserves and other green spaces to meet recreational needs, whilst considering and ameliorating any negative environmental impacts.

Deliverable: Sustainable, well maintained and well used recreation facilities

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## **6. Financial impact statement/Timeframe/Consultation**

Rezoning Gilgandra Reserve to RE1 Public Recreation will impose an obligation on Council to acquire the property, should it be available for purchase.

## **7. Conclusion**

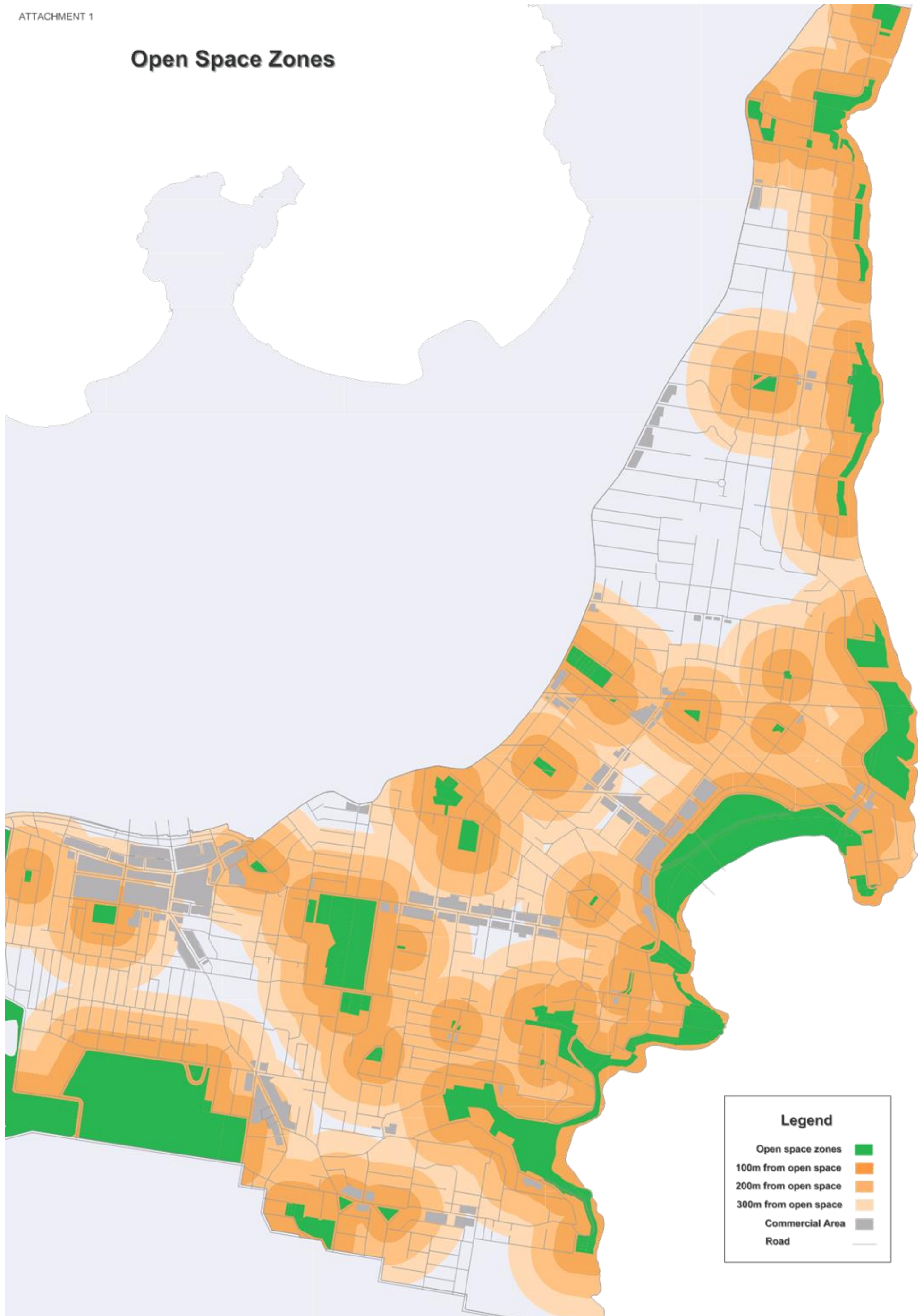
This report recommends that Council take the initiative to protect Gilgandra Reserve for the local community by rezoning the land RE1 Public Recreation and noting it on the Land Reservation Acquisition Map. Combining this rezoning with the rezoning for Niblick Street, North Bondi would be the most efficient way of dealing with this matter.

## **8. Attachments:**

1. Attachment 1 - Open Space Zones Map
2. Attachment 2 - Plan identifying Gilgandra Reserve and Niblick Street Reserve

ATTACHMENT 1

# Open Space Zones



**Legend**

- Open space zones ■
- 100m from open space ■
- 200m from open space ■
- 300m from open space ■
- Commercial Area ■
- Road —

**Attachment 2 - Plan identifying Gilgandra Reserve and Niblick Street Reserve**



**NOTICE OF MOTION  
CM/5.1/16.08E**

**Subject:** Rescission Motion - Council Meeting 19 July 2016 -  
CM/8.7/16.07 - Bondi Pavilion Plan of Management

**TRIM No.:** A15/0272

**Submitted by:** Councillor Masselos  
Councillor Wakefield  
Councillor Wy Kanak

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**MOTION:**

That the Rescission Motion be adopted.

**Background**

This matter was last considered by Council at its meeting on 19 July 2016. Subsequently, the following Notice of Rescission was submitted by Crs Masselos, Wakefield and Wy Kanak:

“We the undersigned Councillors wish to rescind the following decision made by Council at its meeting on Tuesday 19 July 2016:

CM/8.7/16.07 - Bondi Pavilion Plan of Management

Councillors Masselos, Wakefield and Wy Kanak”.

BELOW IS THE MINUTE EXTRACT FROM THE COUNCIL MEETING HELD ON 19 JULY 2016:

**CM/8.7/16.07 Bondi Pavilion Plan of Management (A15/0272)**

*Subsequent to the meeting a motion to rescind this decision was lodged with the General Manager. The motion will be considered at the next Council Meeting.*

**MOTION**

Mover: Cr Wakefield  
Seconder: Cr Wy Kanak

That Council appoints an external consultant to determine the extent to which the current proposal to re-develop the Bondi Pavilion is supported by the Statutory Plan of Management. This report to be completed coincidental with the current community consultation process.

THE MOTION WAS PUT AND DECLARED LOST.

**Division**

**For the Amendment:** Crs Clayton, Masselos, Wakefield and Wy Kanak.

**Against the Amendment:** Crs Betts, Burrill, Cusack, Goltsman, Kay and Mouroukas.



**NOTICE OF MOTION  
CM/5.2/16.08E**

**Subject:** Rescission Motion - Council Meeting 19 July 2016 -  
CM/8.9/16.07 - Bondi Pavilion Heritage

**TRIM No.:** A15/0272

**Submitted by:** Councillor Masselos  
Councillor Wakefield  
Councillor Wy Kanak

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**MOTION:**

That the Rescission Motion be adopted.

**Background**

This matter was last considered by Council at its meeting on 19 July 2016. Subsequently, the following Notice of Rescission was submitted by Crs Masselos, Wakefield and Wy Kanak:

“We the undersigned Councillors wish to rescind the following decision made by Council at its meeting on Tuesday 19 July 2016:

CM/8.9/16.07 - Bondi Pavilion Heritage

Councillors Masselos, Wakefield and Wy Kanak”.

BELOW IS THE MINUTE EXTRACT FROM THE COUNCIL MEETING HELD ON 19 JULY 2016:

**CM/8.9/16.07 Bondi Pavilion Heritage (A15/0272)**

*Subsequent to the meeting a motion to rescind this decision was lodged with the General Manager. The motion will be considered at the next Council Meeting.*

**MOTION**

Mover: Cr Wakefield  
Seconder: Cr Masselos

Council appoints an independent external heritage consultant to appraise the proposed architectural and functional usage of the Pavilion. The appraisal will consider the proposed treatment of the Pavilion against best practice considerations for places of cultural significance. This report to be completed coincidental with the current community consultation process.

THE MOTION WAS PUT AND DECLARED LOST.

**Division**

**For the Amendment:** Crs Clayton, Masselos, Wakefield and Wy Kanak.

**Against the Amendment:** Crs Betts, Burrill, Cusack, Goltsman, Kay and Mouroukas.

**NOTICE OF MOTION**  
**CM/5.3/16.08E**

**Subject:** Rescission Motion - Council Meeting 19 July 2016 -  
CM/9.2/16.07 - Establishment of Councillor Transition  
Reference Group

**TRIM No.:** A16/0054

**Submitted by:** Councillor Masselos  
Councillor Wakefield  
Councillor Wy Kanak

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**MOTION:**

That the Rescission Motion be adopted.

**Background**

This matter was last considered by Council at its meeting on 19 July 2016. Subsequently, the following Notice of Rescission was submitted by Crs Masselos, Wakefield and Wy Kanak:

“We the undersigned Councillors wish to rescind the following decision made by Council at its meeting on Tuesday 19 July 2016:

CM/9.2/16.07 - Establishment of Councillor Transition Reference Group

Councillors Masselos, Wakefield and Wy Kanak”.

BELOW IS THE MINUTE EXTRACT FROM THE COUNCIL MEETING HELD ON 19 JULY 2016:

**CM/9.2/16.07 Establishment of Councillor Transition Reference Group (A16/0054)**

Council resolved to deal with this item as an item of urgent business.

Subsequent to the meeting a motion to rescind this decision was lodged with the General Manager. The motion will be considered at the next Council Meeting.

**MOTION**

Mover: Cr Goltsman

Seconder: Cr Burrill

That:

1. Council establishes a Councillor Transition Reference Group on the terms outlined in this report.
2. Council appoints two Councillors, being the Mayor Cr Sally Betts and Deputy Mayor Cr Tony Kay, to the Councillor Transition Reference Group, similar to the number suggested in the Department of Premier and Cabinet (DPC) Guidelines for post proclamation.

3. Council notes that updates on the activities of the Councillor Transition Reference Group will be included as part of the General Manager's regular Transition Update reports to Council.
4. The General Manager seeks advice under the *Local Government Act* on these procedures.

**AMENDMENT (WITHDRAWN)**

Mover: Cr Wakefield  
 Seconder: Cr Wy Kanak

That the Motion be adopted subject to the addition of the following clause:

'All Councillors receive notice by e-mail of the same notice sent to the appointed Councillors, including any attachments.'

**AMENDMENT**

Mover: Cr Wakefield  
 Seconder: Cr Masselos

That the Motion be adopted subject to clause 2 reading as follows:

"Council appoints all Councillors to the Councillor Transition Reference Group, similar to the number suggested in the Department of Premier and Cabinet (DPC) Guidelines for post proclamation".

THE AMENDMENT WAS PUT AND DECLARED LOST.

**Division**

**For the Amendment:** Crs Clayton, Masselos, Wakefield and Wy Kanak.  
**Against the Amendment:** Crs Betts, Burrill, Cusack, Goltsman, Kay and Mouroukas.

**AMENDMENT**

Mover: Cr Wakefield  
 Seconder: Cr Wy Kanak

That the Motion be adopted subject to all other Councillors being invited to all meetings of the group as observers.

THE AMENDMENT WAS PUT AND DECLARED LOST.

**Division**

**For the Amendment:** Crs Clayton, Cusack, Masselos, Wakefield and Wy Kanak.  
**Against the Amendment:** Crs Betts, Burrill, Goltsman, Kay and Mouroukas.

THE SUBSTANTIVE MOTION WAS THEN PUT AND DECLARED CARRIED.

**Division**

**For the Substantive Motion:** Crs Betts, Burrill, Cusack, Goltsman, Kay and Mouroukas.  
**Against the Substantive Motion:** Crs Clayton, Masselos, Wakefield and Wy Kanak.

**CLOSED SESSION**  
**CM/6/16.08E**

**Subject:** Moving into Closed Session

**Author:** Peter Brown, General Manager

**WAVERLEY**  
COUNCIL

**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/6.1/16.08E CONFIDENTIAL REPORT - Purchase of 21-23 Niblick Street North Bondi and Licence Agreement for 27-29 Gilgandra Road, North Bondi

This matter is considered to be confidential in accordance with Section 10A(2)(d)(i) 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 commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

2. Pursuant to Section 10A(1), 10A(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/7/16.08E**



**WAVERLEY**  
COUNCIL

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

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**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.