



WAVERLEY COUNCIL

MINUTES OF THE WAVERLEY COUNCIL MEETING HELD AT WAVERLEY COUNCIL CHAMBERS, CNR PAUL STREET AND BONDI ROAD, BONDI JUNCTION ON TUESDAY, 20 JUNE 2017

Present:

Councillor Sally Betts (Mayor) (Chair)	Hunter Ward
Councillor Tony Kay (Deputy Mayor)	Waverley Ward
Councillor Angela Burrill	Lawson Ward
Councillor Joy Clayton	Bondi Ward
Councillor Andrew Cusack	Lawson Ward
Councillor Leon Goltsman	Hunter Ward
Councillor Miriam Guttman-Jones	Hunter Ward
Councillor Paula Masselos	Lawson Ward
Councillor Bill Mouroukas	Waverley Ward
Councillor John Wakefield	Bondi Ward

Staff in attendance:

Cathy Henderson	Acting General Manager
Rachel Jenkin	Acting Director, Waverley Life
Peter Monks	Director, Waverley Futures
Emily Scott	Acting Director, Waverley Renewal
Jane Worthy	Internal Ombudsman

At the commencement of proceedings at 6.31 pm, those present were as listed above, with the exception of Cr Wakefield, who arrived at 6.34 pm.

AT 8.39 PM, WHILE IN CLOSED SESSION, COUNCIL ADJOURNED THE MEETING TO 8.00 AM SUNDAY, 25 JUNE 2017, IN THE COUNCIL CHAMBERS.

AT 8.04 AM ON SUNDAY, 25 JUNE 2017, THE MEETING RECONVENED IN CLOSED SESSION IN THE COUNCIL CHAMBERS. AT 8.19 AM, DUE TO THE MEETING BEING INQUORATE, THE CHAIR ADJOURNED THE MEETING WHILE IN CLOSED SESSION TO 8.30 PM TUESDAY, 27 JUNE 2017, IN THE COUNCIL CHAMBERS.

AT 8.31 PM ON TUESDAY, 27 JUNE 2017, THE MEETING RECONVENED IN CLOSED SESSION IN THE COUNCIL CHAMBERS.

PRAYER AND ACKNOWLEDGEMENT OF INDIGENOUS HERITAGE

The Mayor 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

Apologies were received and accepted from Cr Wy Kanak.

CM/1.1/17.06 Leave of Absence - Cr Strewe (SF17/81)**MOTION/ DECISION**

Mover: Cr Masselos

Seconder: Cr Betts

That Cr Strewe be granted a leave of absence for the July Council meeting, the July Operations Committee meeting and the July Council meeting.

2. Declarations of Pecuniary and Non-Pecuniary Interests

The Chair called for declarations of interest and the following were received:

- 2.1 Cr Kay declared a pecuniary interest in Item CM/7.6/17.06 – Campbell Parade Footpath Seating Pilot Project, and informed the meeting that his parents-in-law own property located close to Bondi Pacific. Cr Kay advised that he will be leaving the Chamber for the debate and vote on this item.
- 2.2 Cr Clayton declared an interest in Item CM/7.12/17.06 – Venue Hire Grants Program Awards 2017–18, and informed the meeting that she is on the committee of the Eastern Suburbs branch of the NSW Justices Association, and also a patron of the Association. Cr Clayton advised that she will be leaving the Chamber for this item.
- 2.3 Cr Clayton declared an interest in Item CM/10.2/17.06 – CONFIDENTIAL REPORT – Code of Conduct Complaint – May 2016, and informed the meeting that she will be leaving the Chamber for this item.
- 2.4 Cr Guttman-Jones declared an interest in Item CM/10.2/17.06 – CONFIDENTIAL REPORT – Code of Conduct Complaint – May 2016, and informed the meeting that she will be leaving the Chamber for this item.
- 2.5 Cr Betts declared a significant non-pecuniary interest in Item CM/7.12/17.06 – Venue Hire Grants Program Awards 2017–18, and informed the meeting that she is on the management committee of WAYS, and will be leaving the Chamber for this item.
- 2.6 Cr Betts declared a significant non-pecuniary interest in Item CM/10.2/17.06 – CONFIDENTIAL REPORT – Code of Conduct Complaint – May 2016, and informed the meeting that she will be leaving the Chamber for this item.

3. Addresses to Council by Members of the Public

- 3.1 G Waddell (on behalf of Tamarama Surf Life Saving Club) – CM/8.1/17.06 – Tamarama Surf Life Saving Club.

4. Confirmation and Adoption of Minutes**CM/4.1/17.06 Confirmation of Minutes - Council Meeting - 16 May 2017 (SF17/81)****MOTION / DECISION**

Mover: Cr Goltsman
Seconder: Cr Mouroukas

That the minutes of the Council Meeting held on 16 May 2017 be received and noted, and that such minutes be confirmed as a true record of the proceedings of that meeting.

CM/4.2/17.06 Adoption of Minutes - Waverley Traffic Committee Meeting - 25 May 2017 (SF17/81)**MOTION / DECISION**

Mover: Cr Mouroukas
Seconder: Cr Kay

That Part 1 of the Minutes of the Waverley Traffic Committee Meeting held on 25 May 2017 be received and noted, and that the recommendations contained therein be adopted.

Save and except the following:

1. Item TC/C.01/17.05 – Watson Street, Bondi – ‘No Stopping’ Zone Extension.

And that this item be dealt with separately below.

CM/4.2.1/17.06 Adoption of Minutes - Waverley Traffic Committee Meeting - 25 May 2017 - TC/C.01/17.05 - Watson Street, Bondi - ‘No Stopping’ Zone Extension (A02/0637-02)**MOTION / DECISION**

Mover: Cr Betts
Seconder: Cr Burrill

That the Council Officer’s proposal be adopted subject to the retention of the car space.

5. Mayoral Minutes

CM/5.1/17.06 Extension of General Manager's Employment Contract (P12/040)

MOTION / UNANIMOUS DECISION

Mover: Cr Betts

That Council:

1. Treats Attachment 1 to this report 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)(a) of the *Local Government Act 1993*. The report contains personnel matters concerning particular individuals (other than councillors).
2. Extends the contract of Cathy Henderson as Acting General Manager under section 336(1) of the *Local Government Act 1993* from 5 pm on 15 August 2017 to 5 pm on 14 February 2018 on the same terms and conditions of the previous agreement, which is attached to this report as Attachment 1.
3. Delegates to Cathy Henderson, the Acting General Manager of Council, or to the person acting in the position of General Manager during any period of absence from duty of Cathy Henderson, all the powers and functions of the Council as outlined in Attachment 2 to this report, effective from 5 pm, 15 August 2017, to 5 pm, 14 February 2018, inclusive.
4. Considers a further report on the process for the permanent filling of the position of General Manager once there is further clarity around the direction of current local government reform processes.

Background

Cathy Henderson, Director, Waverley Life, was appointed as Acting General Manager on 16 February on a six-month higher duties appointment which will cease on 15 August 2017. The appointment of six months was made due to the continued uncertainty surrounding the timing of amalgamations. It is likely that a decision on the legal challenges may extend to later in the year and stable leadership throughout this period is essential.

Ms Henderson has provided strong leadership to Council and for this reason I recommend an extension of the acting arrangement allowed under section 336(1) of the *Local Government Act 1993*. The current contract allows either party to provide two weeks' notice to cease the acting arrangements allowing flexibility around pending amalgamation decisions. Ms Henderson's current contract is attached.

CM/5.2/17.06 Rodney Reserve Sports Field Upgrade (A10/0336)

MOTION / DECISION

Mover: Cr Betts

That Council:

1. Proceeds with the upgrade to the sports field at Rodney Reserve, which will include levelling of the field and underground irrigation.
2. Prioritises the traffic study to determine the impact of the improved sporting facilities on local roads and local amenity.
3. Conducts further consultation with residents regarding the results of the traffic study.

Background

The Recreation Needs Study (2008) recognised that the high demand for playing fields across Waverley is not currently being met by existing facilities. The limited open space available across the LGA allows for only three full-size football pitches: two at Waverley Park and one at Rodney Reserve.

Waverley Council has been keen to upgrade Rodney Reserve for several years to provide improved facilities to local sporting groups whilst at the same time limiting the impact to local residents.

The full-size football/rugby field at Rodney Reserve is a training and casual match venue with posts and line markings for rugby and soccer. The current state of the playing field is poor, with an uneven surface, insufficient gradient/crossfall and no permanent irrigation system. The condition of the field at the start of 2017 season was deemed not satisfactory from a number of clubs, who looked for alternative venues outside the Council area to meet their demand.

As an active community, with an appetite for club sport, the pressure for field space will only increase in future years and sports field demand will continue to exceed supply across the area. This results in local community sporting clubs being unable to cater for new members and teams.

There are currently over 1,500 community level registered football players within the LGA, in addition to hundreds of rugby and Gaelic football players (male, female, adults and juniors).

Waverley LGA has eight home winter clubs, who share the limited sports facilities. Many of these clubs are growing; however, Council is not able to accommodate this growth with the existing facilities

In December 2016, Council resolved to continue with the investigation of a number of issues relating to Rodney Reserve, including a traffic impact study and research into potential sites of importance, as well as the creation of an additional concept design for an amenities building.

Whilst concerned about the impacts of an amenities building being constructed at Rodney Reserve and the possible impacts this may have, the local community has always been supportive of an upgrade to the playing field itself.

With the increasing demand for sports fields and the significant concerns about the playing field at Rodney Reserve, it is recommended that Council proceeds with the upgrade of the playing field at the earliest opportunity. The playing field upgrades are designed around community level sport and will include required irrigation and levelling to allow sport to be played safely throughout the year. Upgrades are not designed for high performance or elite sporting facilities.

It is further recommended to expedite the traffic impact study and present the results of the study to the local community for consultation regarding any potential recommended changes.

Division

For the Motion: Crs Betts, Burrill, Clayton, Cusack, Goltsman, Guttman-Jones, Kay and Mouroukas.

Against the Motion: Crs Masselos and Wakefield.

6. Obituaries

Kirsty Boden

Tara Hunt

Council rose for a minute's silence for the souls of people generally who have died in our Local Government area.

7. Reports**CM/7.1/17.06 High Tide Room - Options for the Repair or Replacement of the Roof (A03/0929-04)****MOTION / UNANIMOUS DECISION**

Mover: Cr Burrill
Seconder: Cr Goltsman

That Council:

1. Approves the full replacement of the High Tide Room roof in the South Western wing of Bondi Pavilion.
2. Approves the replacement of the metal awning and downpipe as part of the upgrade works.
3. Notes that \$177,000 has been allocated in the draft 2017/18 Capital Works budget for the roof replacement project.

Cr Guttman-Jones was not present for the vote on this item.

CM/7.2/17.06 Proposed Budget for Financial Year 2017/18 and Long Term Financial Plan (LTFP 4.4) (A03/2236)**MOTION / DECISION**

Mover: Cr Cusack
Seconder: Cr Betts

That Council:

1. Adopts the budget for the financial year 2017/18 as presented in Attachment 1 and 2 to this report.
2. Notes the Long Term Financial Plan (LTFP 4.4) for an 11-year period from 2017/18 to 2027/28 including Income Statement, Balance Sheet, Statement of Cash Flow, Reserve Balances, General Assumptions as presented in Attachments 3, 4, 5 to this report and the Sensitivity Analysis.

CM/7.3/17.06 Draft Operational Plan 2017-18 and Proposed Pricing Policy, Fees and Charges 2017-18 (A17/0149)**MOTION / UNANIMOUS DECISION**

Mover: Cr Betts

Seconder: Cr Kay

That Council:

1. Receives and notes the submissions and proposed amendments made in relation to the draft Operational Plan 2017–18 and the proposed Pricing Policy, Fees and Charges 2017–18 as in Attachment 1 to this report.

2. Adopts the Draft Operational Plan 2017–18 and the proposed Pricing Policy, Fees and Charges 2017–18 with changes marked up in Attachments 2 and 3 in accordance with section 405 of the *Local Government Act 1993*, subject to the following fees being included at page 27 after the section on building-related certificates on page 26 and 27, which were inadvertently omitted and are fees for standard services provided by Council over many years:
 - (a) Building inspection fees (where Council is Principle Certifier and issuer of the Construction Certificate): \$150 per required inspection.
 - (b) Construction Certificate and Complying Development Certificate – Administration fee: \$150 per certificate.
 - (c) Construction Certificate and Complying Development Certificate – Assessment fee up to \$5,000 building cost: 0.6% of cost.
 - (d) Construction Certificate and Complying Development Certificate – Assessment fee \$5,001 - \$100,000: (c) + 0.5% for next \$95,000.
 - (e) Construction Certificate and Complying Development Certificate – Assessment fee \$100,001- \$250,000: (c+d) + 0.4% for next \$150,000.
 - (f) Construction Certificate and Complying Development Certificate – Assessment fee \$250,001- \$1 million: (c+d+e) + 0.2% for next \$750,000.
 - (g) Construction Certificate and Complying Development Certificate – Assessment fee \$1 million+: (c+d+e+f) + 0.1% over \$1 million.
 - (h) Notification fee for Complying Development Certificate: \$190 per application.
 - (i) Occupation certificate application fee (interim or final): \$150

3. Adopts the Rating Structure for 2017–18 contained on page 59 of the Operational Plan 2017–18 in Attachment 2, together with the proposed Pricing Policy, Fees and Charges 2017–18 as in Attachment 3, in accordance with sections 497, 516, 518 , 529(2)(d), 534, 535 and 548(3) of the *Local Government Act*, making the following rates and charges for every parcel of rateable land within the Waverley Council Local Government Area for the period of 1 July 2017 to 30 June 2018:
 - (a) That an ordinary rate of zero point one one zero five one cents (0.11051) in the dollar subject to a minimum rate of \$614.26 in accordance with section 548(3) of the Act, on all rateable land categorised Residential in accordance with section 516 of the Act be now made for the period 1 July 2017 to 30 June 2018.

- (b) That an ordinary rate of zero point five one nine nine six cents (0.51996) in the dollar on all rateable land categorised Business in accordance with section 518 of the Act be now made for the period 1 July 2017 to 30 June 2018.
- (c) That an ordinary rate of zero point eight four six nine three cents (0.84693) in the dollar on all rateable land categorised Business in accordance with section 518 of the Act and subcategorised Bondi Junction in accordance with section 529(2)(d) of the Act be now made for the period 1 July 2017 to 30 June 2018.
- (d) That in accordance with section 496 of the *Local Government Act*, the charge for the Domestic Waste Management Service is set at \$515.00 per service per annum for the period 1 July 2017 to 30 June 2018.

CM/7.4/17.06 Draft Bondi Junction Green Infrastructure Master Plan (A16/0286)

MOTION / UNANIMOUS DECISION

Mover: Cr Wakefield
Seconder: Cr Goltsman

That Council:

1. Adopts the draft Bondi Junction Green Infrastructure Master Plan.
2. Proceeds to the delivery of the waste, energy and water solutions in the implementation plan.

CM/7.5/17.06 Voluntary Planning Agreement Associated with Development Application at 695 Old South Head Road, Vaucluse (DA-156/2016)

MOTION / UNANIMOUS DECISION

Mover: Cr Goltsman
Seconder: Cr Cusack

That Council:

1. Endorses the draft Planning Agreement attached to this report applying to land at 695 Old South Head Road, Vaucluse, that provides a total contribution of \$230,380. Of this amount, \$207,342 is to be dedicated towards public works for the improvement of Kimberley Reserve, Vaucluse. The remaining \$23,038 (10%) is to be dedicated towards Waverley's Affordable Housing Program in accordance with the Waverley Planning Agreement Policy 2014.
2. Authorises the Mayor and General Manager to sign and execute the agreement and affix the Council seal to the documentation.

Division

For the Motion: Crs Betts, Burrill, Clayton, Cusack, Goltsman, Guttman-Jones, Kay, Masselos, Mouroukas and Wakefield.

Against the Motion: Nil.

CM/7.6/17.06 Campbell Parade Footpath Seating Pilot Project (FPS-12/2015)

Cr Kay declared a pecuniary interest in this item, and informed the meeting that his parents-in-law own property located close to Bondi Pacific. Cr Kay was not present at, or in sight of, the meeting for the consideration and vote on this item.

MOTION / DECISION

Mover: Cr Goltsman
Seconder: Cr Burrill

That Council:

1. Revokes resolutions 1 and 4 from CM/7.2/15.08 of its meeting held on 18 August 2015 concerning the Bondi Pacific Pilot Project for outdoor dining at Campbell Parade relating to the waiving of footpath dining fees for a three year period, and which prevented the southern footpath dining area from being used or associated with any proposed hotel licensed premises within the adjacent Pacific Bondi development.
2. Endorses the Bondi Pacific footpath seating Pilot Project operating for a four-year period with footpath seating fees being waived for the duration of this period.
3. Supports, in principle, the use of the southern footpath dining area being constructed and used by the operator of the adjacent licensed hotel premises, subject to:
 - (a) The assessment and determination of the outdoor dining development application for construction and use of the southern outdoor dining location.
 - (b) Any approval for this location, being restricted to the nominated hotel operator and the style of premises and management of the operation as detailed by the applicant and detailed in this report.
 - (c) The range of management and risk mitigation outlined by the applicant being enforced as conditions of consent and included in the approved Plan of Management for the Pilot Project.

Division

For the Motion: Crs Betts, Burrill, Cusack, Goltsman and Mouroukas.

Against the Motion: Crs Clayton, Guttman-Jones, Masselos and Wakefield.

CM/7.7/17.06 Evaluation of Tender - Environmental Data System (A17/0150)**MOTION / UNANIMOUS DECISION**

Mover: Cr Goltsman
Seconder: Cr Mouroukas

That Council:

1. Treats the Tender Evaluation Matrix attached to this report as confidential as it relates to a matter specified in section 10A(2)(c) of the *Local Government Act 1993*. The attachment contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
2. Enters into a contract under clause 178 of the *Local Government (General) Regulation 2005* with Planet Footprint Pty Ltd for the provision of an Interval Data Evaluation and Alerts System.

3. Notifies unsuccessful tenderers of the decision in accordance with clause 179 of the *Local Government (General) Regulation 2005*.

CM/7.8/17.06 Draft Related Party Disclosures Policy (A17/0161)

MOTION / UNANIMOUS DECISION

Mover: Cr Kay
Seconder: Cr Mouroukas

That Council adopts the draft Related Party Disclosures Policy (Attachment 1) in line with the requirements of Accounting Standard AASB 124, subject to the following amendments:

1. (Page 8 of the Policy/page 359 of the agenda): Council officers to consider including some of the statements in Section 5.4 of the Policy as a description in the two disclosure forms to provide improved comprehension.
2. (Page 8 of the Policy/page 359 of the agenda): replace 'This is required by June 30 or as requested' with 'This is required by July 14 for the prior financial year, or as requested.'

CM/7.9/17.06 Councillors' Fees - Local Government Remuneration Tribunal Determination for 2017-18 (A03/1343)

MOTION / DECISION

Mover: Cr Kay
Seconder: Cr Cusack

That Council:

1. Receives and notes this report and the 2017 determination from the Local Government Remuneration Tribunal attached to this report.
2. In accordance with the Local Government Remuneration Tribunal's determination, endorses the annual fees for the year 1 July 2017 to 30 June 2018 as follows:
 - (a) All Councillors (including the Mayor) – \$19,310.
 - (b) Mayor – \$42,120 in addition to the Councillor fee.
 - (c) Deputy Mayor – \$3,728 in addition to the Councillor fee, and that this amount be paid from the fees paid to the Mayor.

Division

For the Motion: Crs Betts, Burrill, Clayton, Cusack, Goltsman, Guttman-Jones, Kay, Masselos and Mouroukas

Against the Motion: Cr Wakefield.

CM/7.10/17.06 Investment Policy Review - 2017 (A05/0197)**MOTION / UNANIMOUS DECISION**

Mover: Cr Cusack

Seconder: Cr Burrill

That Council adopts the draft revised Investment Policy, as attached to this report.

CM/7.11/17.06 Investment Portfolio Report – May 2017 (A03/2211)**MOTION / UNANIMOUS DECISION**

Mover: Cr Cusack

Seconder: Cr Burrill

That Council:

1. Receives the investment Portfolio Report – May 2017.
2. Notes that all investments have been made in accordance with the requirements of section 625 of the *Local Government Act 1993* and directions from the Minister for Local Government, including Ministerial Investment Orders and Council's Investment Policy.

CM/7.12/17.06 Venue Hire Grants Program Awards 2017-18 (A17/0227)

Cr Clayton declared an interest in this item, and informed the meeting that she is on the committee of the Eastern Suburbs branch of the NSW Justices Association, and also a patron of the Association. Cr Clayton was not present at, or in sight of, the meeting for the consideration and vote on this item.

Cr Betts declared a significant non-pecuniary interest in this item, and informed the meeting that she is on the management committee of WAYS. Cr Betts vacated the Chair, and was not present at, or in sight of, the meeting for the consideration and vote on this item. Cr Kay assumed the Chair for this item.

MOTION / UNANIMOUS DECISION

Mover: Cr Goltsman

Seconder: Cr Mouroukas

That Council, under s 356 of the *Local Government Act*, provides the financial assistance as set out in Attachment 1 to this report, to support those listed organisations with venue hire costs until 30 June 2018 under Council's Venue Hire Grant Program 2017-18.

8. Notices of Motion**CM/8.1/17.06 Tamarama Surf Life Saving Club (A02/0422)****MOTION / UNANIMOUS DECISION**

Mover: Cr Masselos

Seconder: Cr Mouroukas

That Council congratulates Tamarama Surf Life Saving Club on the holding of a very successful safe surfing, swimming and fishing education day for migrants on Thursday, 11 May 2017, at Tamarama Surf Club.

CM/8.2/17.06 Footpath Seating - Bronte Beach (A03/2371)**MOTION / UNANIMOUS DECISION**

Mover: Cr Masselos
 Seconder: Cr Wakefield

That:

1. The Sunday hours of operation for the outdoor footpath dining areas for the cafes and restaurants at Bronte Beach be amended to a 7 am starting time until the adoption of the next DCP amendment changes.
2. All existing cafes and restaurants with approved footpath dining areas be notified of this change.

9. Urgent Business

There were no items of urgent business.

10. Closed Session**CM/10/17.06 Closed Session**

Cr Betts vacated the Chair for this item, and was not present at, or in sight of, the meeting for the consideration and vote on this item. Deputy Mayor Cr Kay assumed the Chair for this item.

Crs Clayton and Guttman-Jones left the Chamber during the consideration of this item, and were not present for the vote.

Before the motion to close the meeting was put, the Chair provided an opportunity for members of the public to make representations as to whether this part of the meeting should be closed. Representations were received from E Morel and M Cox that the meeting should not be closed.

MOTION

Mover: Cr Goltsman
 Seconder: Cr Mouroukas

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/10.1/17.06 CONFIDENTIAL REPORT - New lease, Spotlight Pty Ltd, Upper floor, 65 Ebley Street, Bondi Junction

This matter is considered to be confidential in accordance with Section 10A(2)(c) of the *Local Government Act*, and 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.

CM/10.2/17.06 CONFIDENTIAL REPORT - Code of Conduct Complaint - May 2016

This matter is considered to be confidential in accordance with Section 10A(2)(i) of the *Local Government Act*, and 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 alleged contraventions of any code of conduct requirements applicable under section 440.

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*.

AMENDMENT

Mover: Cr Wakefield
Seconder: Cr Masselos

That the Motion be adopted subject to Item CM/10.1/17.06 being considered in closed session and Item CM/10.2/17.06 being considered in open session.

THE AMENDMENT WAS PUT AND DECLARED LOST.

Division

For the Amendment: Crs Masselos and Wakefield.

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

THE MOTION WAS THEN PUT AND DECLARED CARRIED.

Division

For the Motion: Crs Burrill, Cusack, Goltsman, Kay and Mouroukas.

Against the Motion: Crs Masselos and Wakefield.

DECISION: That the Motion be adopted.

At 8.21 pm, Council moved into closed session.

At 8.23 pm, the Chair adjourned the meeting for 10 minutes to clear the public gallery.

At 8.35 pm, the meeting resumed with members of the public still present. The following Motion was then moved:

MOTION

Mover: Cr Kay
Seconder: Cr Goltsman

That the meeting be adjourned to 8 am Sunday, 25 June 2017, in the Council Chambers.

AMENDMENT

Mover: Cr Wakefield
Seconder: Cr Masselos

That the Motion be adopted subject to the meeting being adjourned to 10 am Saturday, 24 June 2017, in the Council Chambers.

THE AMENDMENT WAS PUT AND DECLARED LOST.

THE MOTION WAS THEN PUT AND DECLARED CARRIED.

DECISION: That the Motion be adopted.

At 8.39 pm, the meeting adjourned while in closed session.

THE MEETING RECONVENED IN CLOSED SESSION IN THE COUNCIL CHAMBERS ON SUNDAY, 25 JUNE, AT 8.04 AM. AT THE COMMENCEMENT OF PROCEEDINGS, THOSE PRESENT WERE AS FOLLOWS: CRS KAY (CHAIR), BETTS (MAYOR), BURRILL, CLAYTON, CUSACK, GOLTSMAN, GUTTMAN-JONES, MASSELOS AND MOUROUKAS. CR WAKEFIELD ARRIVED AT 8.06 AM.

THE FIRST ITEM FOR CONSIDERATION WAS AS FOLLOWS:

CM/10.1/17.06 CONFIDENTIAL REPORT - New lease, Spotlight Pty Ltd, Upper floor, 65 Ebley Street, Bondi Junction (A02/0257)

MOTION / UNANIMOUS DECISION

Mover: Cr Cusack
Seconder: Cr Burrill

That Council:

1. Treats this report 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)(c) of the *Local Government Act 1993*. The report contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
2. Approves a new lease to Spotlight Pty Ltd on the key terms and conditions outlined in this report.
3. Authorises the Mayor and General Manager to finalise negotiations, sign and execute the necessary documentation.

Cr Wakefield was not present for the consideration and vote on this item.

CM/10.2/17.06 CONFIDENTIAL REPORT - Code of Conduct Complaint - May 2016 (A16/0343)

Cr Clayton declared an interest in this item, and was not present at, or in sight of, the meeting for the consideration and vote on this item.

Cr Guttman-Jones declared an interest in this item, and was not present at, or in sight of, the meeting for the consideration and vote on this item.

Cr Betts declared a significant non-pecuniary interest in item, and was not present at, or in sight of, the meeting for the consideration and vote on this item.

AT THIS STAGE IN THE PROCEEDINGS, THE CHAIR (DEPUTY MAYOR CR KAY) INVITED CR BETTS INTO THE CHAMBER TO ADDRESS THE MEETING, IN ACCORDANCE WITH CL 8.47 OF THE CODE OF CONDUCT PROCEDURE FOR COUNCILLORS & GENERAL MANAGER.

BEFORE CR BETTS ENTERED THE CHAMBER, A COUNCILLOR LEFT THE CHAMBER, LEAVING THE MEETING WITHOUT A QUORUM. THE COUNCILLORS PRESENT WERE CRS KAY, BURRILL, CUSACK, GOLTSMAN, MASSELOS AND MOUROUKAS.

DUE TO THE MEETING BEING INQUORATE, THE CHAIR ADJOURNED THE MEETING WHILE IN CLOSED SESSION TO 8.30 PM TUESDAY, 27 JUNE 2017, IN THE COUNCIL CHAMBERS.

At 8.19 am, the meeting adjourned.

THE MEETING RECONVENED IN CLOSED SESSION IN THE COUNCIL CHAMBERS ON TUESDAY, 27 JUNE 2017, AT 8.31 PM. AT THE COMMENCEMENT OF PROCEEDINGS, THOSE PRESENT WERE AS FOLLOWS: CRS KAY (CHAIR), BURRILL, CUSACK, GOLTSMAN, MOUROUKAS, MASSELOS AND WAKEFIELD.

THE CHAIR INVITED CR BETTS INTO THE CHAMBER TO ADDRESS THE MEETING, IN ACCORDANCE WITH CL 8.47 OF THE CODE OF CONDUCT PROCEDURE FOR COUNCILLORS & GENERAL MANAGER.

CR BETTS ADDRESSED THE MEETING, AND THEN IMMEDIATELY LEFT THE CHAMBER. CR BETTS WAS NOT PRESENT AT, OR IN SIGHT OF, THE MEETING FOR THE CONSIDERATION AND VOTE ON THIS ITEM.

MOTION

Mover: Cr Cusack
Seconder: Cr Goltsman

That Council:

- A. Treats this report 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)(i) of the *Local Government Act 1993*. The report contains alleged contraventions of any code of conduct requirements applicable under section 440.
- B. Notes that the Office of Local Government (OLG) review of the OCM Investigation Report and related matters determined the following:

'With respect to Council's meeting on 17 May 2016, OLG notes the following:

- *Cr Betts made a decision as to the result of the vote on the voices and appears to have been satisfied that the majority of councillors had voted for the motion to adjourn the meeting. Having obtained the audio recording of the meeting in question from Council, OLG believes that it was reasonably open to Cr Betts to arrive at the decision she did.*
- *The investigators determined, and OLG agrees, that a division was not demanded in the manner prescribed under clause 251(3).*
- *Under these circumstances:*
 - *Cr Betts' decision as to the result of the vote was final; and*
 - *Neither the Act nor the Regulation required Cr Betts to initiate a division or confirm the outcome of the vote by other means.*

In light of this, it is not clear to OLG that the final investigation report sufficiently establishes that Cr Betts' conduct was inconsistent with her obligations under the Act and Regulation, or that Cr Betts failed to exercise a reasonable degree of care and diligence in carrying out her functions as chairperson under the Act.'

- C. Therefore:
 1. Notes the letter from OLG attached to this report.
 2. Notes the OCM Investigation Report into the Code of Conduct complaints attached to this

report.

3. In view of the findings of the OLG letter, resolves not to adopt:
 - (a) Recommendation 1 of the OCM Report.
 - (b) The findings of inappropriate conduct contained within the OCM Report.
4. Finds that, in accordance with the review of the OCM Investigation by the OLG:
 - (a) Cr Betts acted within her obligations under the Act and Regulations.
 - (b) She did exercise a reasonable degree of care and diligence in carrying out her role as chairperson under the Act.
 - (c) Cr Betts did not illegally adjourn the meeting on Tuesday 17 May 2016.
 - (d) Cr Betts made a decision about the result of the vote on the voices and the OLG, having obtained the audio recording of the meeting, believes that it was reasonably open for Cr Betts to have arrived at the decision she did.
 - (e) Cr Betts was therefore not guilty of any inappropriate conduct.
 - (f) No sanction should be imposed on Cr Betts.
5. Expresses great concern that OCM's:
 - (a) Failure to ensure the 'confidentiality' of their final findings to Complainants; and
 - (b) Failure to establish that Cr Betts' conduct was inconsistent with her obligations under the Act and Regulation, as outlined by OLG

has led to misleading, inaccurate and harmful statements regarding Cr Betts' conduct being discussed in the press, local blogs and the NSW Parliament, causing her to experience considerable financial, emotional and reputational impact that ought to be remedied.
6. Requests the General Manager to meet with OCM to request that they:
 - (a) Explain their findings in the light of the OLG review.
 - (b) Explain why they did not immediately discount the allegations that the Mayor 'illegally' closed the meeting when, as acknowledged and in reality, the Mayor only adjourned the meeting, and then explain why they did not acknowledge the difference in the report.
 - (c) Explain why they released their findings to complainants without a confidentiality clause.
 - (d) Outline how OCM intends to remedy the harm that this oversight has caused to Mayor Cr Sally Betts and Waverley Council.
7. Should immediately ensure that the OLG 'Guide to Code of Conduct Processes for Complainants' becomes a part of Council's and any reviewer's processes, in particular the paragraph which states: 'As a complainant you should not make public allegations of suspected breaches of the code or disclose information about the consideration of a matter under the

code'.

8. Agrees that Council's Code of Meeting Practice should be urgently reviewed in line with the recommendations of the OCM Report.
9. Endorses public release of the OLG letter and the OCM Report simultaneously, subject to OLG approval.

AT THIS STAGE IN THE PROCEEDINGS, AND IN ACCORDANCE WITH CL 11.15 OF THE CODE OF MEETING PRACTICE, CR MOUROUKAS MOVED A PROCEDURAL MOTION THAT THE MOTION BE NOW PUT.

THE PROCEDURAL MOTION WAS PUT AND DECLARED CARRIED.

THE SUBSTANTIVE MOTION WAS THEN PUT AND DECLARED CARRIED.

Division

For the Motion: Crs Burrill, Cusack, Goltsman, Kay and Mouroukas.

Against the Motion: Crs Masselos and Wakefield.

DECISION: That the Motion be adopted.

11. Resuming in Open Session

CM/11/17.06 Resuming in Open Session

MOTION / UNANIMOUS DECISION

Mover: Cr Cusack

Seconder: Cr Goltsman

That Council:

1. Resumes in open session.
2. Adjourns the meeting for 15 minutes to allow members of the public to access the public gallery.

At 9.17 pm, Council resumed in open session.

At 9.18 pm, the meeting adjourned for 15 minutes.

At 9.30 pm, the meeting resumed.

Resolutions from closed session made public

In accordance with clause 253 of the Local Government (General) Regulation 2005, when the meeting resumed after the adjournment the Chair announced 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.

12. Meeting Closure

THE MEETING CLOSED AT 9.38 PM.

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SIGNED AND CONFIRMED
MAYOR
18 JULY 2017