



W A V E R L E Y
C O U N C I L

EXTRAORDINARY COUNCIL MEETING

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

6.30PM, TUESDAY 6 FEBRUARY 2018

Cathy Henderson
Acting 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. **Mayoral Minute**
 - MM/4.1/18.02 Appointment of Acting General Manager2
5. **Closed Session** 5

The following matter is proposed to be dealt with in closed session and has been distributed to Councillors separately with the agenda:

 - CM/5.1/18.02 CONFIDENTIAL REPORT - Confidential Legal Matter
6. **Resuming in Open Session** 7
7. **Meeting Closure**

MAYORAL MINUTE
MM/4.1/18.02

Subject: Appointment of Acting General Manager

TRIM No: A02/0484

Author: Mayor of Waverley, Councillor John Wakefield

MOTION:

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. Appoints Peter Monks as Acting General Manager under section 336(1) of the Local Government Act 1993 from 5.00 pm on 14 February 2018 until the date on which the new permanent appointee commences employment on the terms and conditions contained in Attachment 1.
3. Delegates to Peter Monks, as Acting General Manager of Council, or to the person acting in the position of General Manager during any period of absence from duty of Peter Monks, all the powers and functions of the Council that it may under any Act of Parliament lawfully delegate, other than the functions prescribed in s377 (1) of the Local Government Act 1993, which may not be delegated, effective from 5 pm, 14 February 2018 until the date on which the new permanent appointee commences employment, subject to the limitations set out in the Instrument of Delegation attached to this report.

Background

Following the resignation of Interim General Manager, Peter Brown, Cathy Henderson, Director Waverley Life, was appointed as Acting General Manager on 16 February on a 6 month higher duties appointment. This contract was extended until 14 February 2018 because a decision was still pending on amalgamation.

The Local Government Act 1993 (section 351 (1)) does not permit a temporary appointment beyond 12 months (except for maternity leave vacancies in which case the term is a maximum of 24 months).

As Council has not concluded the recruitment process for a permanent General Manager, it is necessary for Council to appoint another Acting General Manager.

I propose that Peter Monks, Director Waverley Futures, be appointed to the position of Acting General Manager commencing from 5pm 14 February 2018, in a higher duties capacity until the new permanent General Manager commences with Council. The appointment will be on the terms and conditions outlined in Attachment 1.

Attachments

1. Terms and Conditions for the Appointment of Peter Monks as Acting General Manager (confidential)
2. DRAFT Instrument of Delegation for the General Manager Peter Monks .



INSTRUMENT OF DELEGATION FOR THE GENERAL MANAGER

Under Section 377(1) of the *Local Government Act 1993* Waverley Council (the "Council"):

1. Revokes all delegations and functions made by it to the General Manager prior to the date of this instrument.
2. Subject to the limitations set out in this instrument and in compliance with any resolution of the Council, delegates to **PETER MONKS** the General Manager of the Council, or to the person acting in the position of General Manager during the period of any vacancy in the office or any absence from duty of **PETER MONKS**, all powers and functions of the Council that it may under any Act of Parliament lawfully delegate effective from the date of this Instrument.

Limitations on Delegation

1. Functions delegated to the General Manager do not include:
 - a. Those functions designated in Section 377(1) of the *Local Government Act 1993* as functions which may not be delegated;
 - b. The acceptance of tenders;
 - c. Any function designated in any other Act of Parliament as a function which may not be delegated;
 - d. Those functions delegated to the Mayor or Committees of Council;
 - e. The making of new property leases and licenses (except residential tenancy) for any period of more than twelve months;
 - f. A decision to prepare a draft environmental planning instrument or draft development control plan;
 - g. The determination of submissions received in response to the public exhibition or notification of a draft environmental planning instrument or a draft development control plan;
 - h. The adoption of a draft environmental planning instrument for submission to the Director General of Planning for the adoption of a draft development control plan.
2. The function of media liaison, where it involves media releases or speaking to the media on behalf of the Council, may only be exercised after consultation with the Mayor or the Mayor's Office.

CLOSED SESSION CM/5/18.02



Subject: Moving into Closed Session
Author: Cathy Henderson, Acting General Manager

WAVERLEY
COUNCIL

RECOMMENDATION:

That:

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

CM/5.1/18.02 CONFIDENTIAL REPORT - Confidential Legal Matter

This matter is considered to be confidential in accordance with Section 10A(2)(g) 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 advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

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 as confidential under 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 (other than councillors).
- (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/6/18.02**



Subject: Resuming in Open Session

Author: Cathy Henderson, Acting General Manager

WAVERLEY
COUNCIL

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.