



OPERATIONS AND COMMUNITY SERVICES COMMITTEE MEETING

A meeting of the OPERATIONS AND COMMUNITY SERVICES COMMITTEE will be held at
Waverley Council Chambers, Cnr Paul Street and Bondi Road, Bondi Junction at:

7.00PM, TUESDAY 10 APRIL 2018

A handwritten signature in black ink, appearing to read 'Emily Scott'.

Emily Scott
Acting General Manager

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Delegations of the Waverley Operations and Community Services Committee

On 10 October 2017, Waverley Council delegated to the Waverley Operations and Community Services Committee the authority to determine any matter **other than**:

1. Those activities designated under s 377(1) of the *Local Government Act* which are as follows:
 - (a) The appointment of a general manager.
 - (b) The making of a rate.
 - (c) A determination under section 549 as to the levying of a rate.
 - (d) The making of a charge.
 - (e) The fixing of a fee
 - (f) The borrowing of money.
 - (g) The voting of money for expenditure on its works, services or operations.
 - (h) The compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment).
 - (i) The acceptance of tenders to provide services currently provided by members of staff of the council.
 - (j) The adoption of an operational plan under section 405.
 - (k) The adoption of a financial statement included in an annual financial report.
 - (l) A decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6.
 - (m) The fixing of an amount or rate for the carrying out by the council of work on private land.
 - (n) The decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work.
 - (o) The review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the *Environmental Planning and Assessment Act 1979*.
 - (p) The power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194.
 - (q) A decision under section 356 to contribute money or otherwise grant financial assistance to persons,
 - (r) A decision under section 234 to grant leave of absence to the holder of a civic office.
 - (s) The making of an application, or the giving of a notice, to the Governor or Minister.
 - (t) This power of delegation.
 - (u) Any function under this or any other Act that is expressly required to be exercised by resolution of the council.
2. The adoption of a Community Strategic Plan, Resourcing Strategy and Delivery Program as defined under sections 402, 403, and 404 of the *Local Government Act*.

Live Streaming of Meetings

This meeting is streamed live via the internet and an audio visual recording of the meeting will be publicly available on Council's website.

By attending this meeting you consent to your image and/or voice being live streamed and publicly available.

AGENDA

PRAYER AND ACKNOWLEDGEMENT OF INDIGENOUS HERITAGE

The Chair 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. Confirmation of Minutes

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6. Urgent Business

7. Meeting Closure

CONFIRMATION OF MINUTES

OC/4.1/18.04



Subject: Confirmation of Minutes - Operations and Community Services Committee Meeting - 6 March 2018

TRIM No.: SF18/245

Author: Al Johnston, Governance and Internal Ombudsman Officer

RECOMMENDATION:

That the minutes of the Operations and Community Services Committee Meeting held on 6 March 2018 be received and noted, and that such minutes be confirmed as a true record of the proceedings of that meeting.

Introduction/Background

The minutes of the Operations and Community Services Committee meeting must be submitted to Operations and Community Services Committee for confirmation, in accordance with section 375 of the *Local Government Act 1993*.

Attachments

1. Operations and Community Services Committee Meeting Minutes - 6 March 2018



**MINUTES OF THE OPERATIONS AND COMMUNITY SERVICES COMMITTEE MEETING
HELD AT WAVERLEY COUNCIL CHAMBERS, CNR PAUL STREET AND BONDI ROAD, BONDI JUNCTION ON
TUESDAY, 6 MARCH 2018**

Present:

Councillor George Copeland (Chair)	Waverley Ward
Councillor John Wakefield (Mayor)	Bondi Ward
Councillor Dominic Wy Kanak (Deputy Mayor)	Bondi Ward
Councillor Sally Betts	Hunter Ward
Councillor Angela Burrill	Lawson Ward
Councillor Leon Goltsman	Bondi Ward
Councillor Tony Kay	Waverley Ward
Councillor Steven Lewis	Hunter Ward
Councillor Paula Masselos	Lawson Ward
Councillor Will Nemesh	Hunter Ward
Councillor Marjorie O'Neill	Waverley Ward

Staff in attendance:

Peter Monks	Acting General Manager
Linda Bathur	Acting Director, Waverley Life
George Bramis	Acting Director, Waverley Futures
Emily Scott	Director, Waverley Renewal
Jane Worthy	Internal Ombudsman

At the commencement of proceedings at 7.01 pm, those present were as listed above with the exception of Cr Nemesh who arrived while the meeting was in adjournment. Cr Nemesh was present when the meeting reconvened at 8.36 pm.

At 8.00 pm, the meeting was adjourned to allow the Strategic Planning and Development Committee Meeting to be held.

At 8.36 pm, the meeting was reconvened.

PRAYER AND ACKNOWLEDGEMENT OF INDIGENOUS HERITAGE

The Chair 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 Keenan.

2. Declarations of Pecuniary and Non-Pecuniary Interests

The Chair called for declarations of interest and none were received.

However, Cr Copeland later declared a pecuniary interest at Item OC/5.5/18.03 - Bondi Pavilion Community Stakeholder Committee Report - Forecourt and Curtilage. Cr Copeland did not disclose the nature of the pecuniary interest.

3. Addresses to Council by Members of the Public

There were no addresses to Council by members of the public.

4. Confirmation of Minutes

OC/4.1/18.03 Confirmation of Minutes - Operations and Community Services Committee Meeting - 6 February 2018 (SF18/245)

MOTION / UNANIMOUS DECISION

Mover: Cr Lewis
Seconder: Cr Wy Kanak

That the minutes of the Operations and Community Services Committee Meeting held on 6 February 2018 be received and noted, and that such minutes be confirmed as a true record of the proceedings of that meeting.

AT THIS STAGE IN THE PROCEEDINGS, THE FOLLOWING MOTION MOVED BY CR GOLTSMAN, SECONDED BY CR WY KANAK WAS DECLARED CARRIED UNANIMOUSLY:

That the meeting recording be made available on Council's website within seven days of the meeting.

5. Reports

OC/5.1/18.03 Market Operations in Oxford Street Mall, Bondi Junction - Interim Arrangements (A10/0384)

MOTION / UNANIMOUS DECISION

Mover: Cr Masselos
Seconder: Cr Wakefield

That:

1. Council notes the progress in seeking alternative options for managing the Oxford Street Mall markets and that a further report detailing the proposed model for Council to assume direct control of the markets on an interim basis will be brought to the 20 March 2018 Council meeting.
2. The Mayor and General Manager be delegated to resolve any outstanding issues prior to the next Council meeting, and that the issues and resolutions be included in the above report.

OC/5.2/18.03 New Councillor Expenses and Facilities Policy (A17/0452)

Immediately after the meeting, a motion to rescind this decision was lodged with the General Manager. The Rescission Motion will be considered by Council at its next meeting.

MOTION

Mover: Cr Wakefield
Seconder: Cr Wy Kanak

That Council:

1. Adopts the attached draft Councillor Expenses and Facilities Policy for the purposes of public exhibition pursuant to s 253(1) of the *Local Government Act 1993*, subject to the following amendments:
 - (a) Pg9/23 of agenda: Special Requirement and Carer Expenses: Section 6.39 and summary table on pg3/17 of agenda: Increase carer expenses from \$35 per hour to \$40 per hour.
 - (b) Pg9/23 of agenda: Section 6.39: add 'for the purposes of this clause' before the words 'official business is'.
 - (c) Pg9/23 of agenda and summary table on pg4/18 of agenda – Home Office Expenses, including stationery: Section 6.42: Increase \$1,000 to \$1,200 per councillor.
 - (d) Pg8/22 of agenda – Information and Communications Technology (ICT) expenses: Section 6.33 – Change the phrase 'Only the following ICT devices are covered...' to 'Only the following ICT devices and related items are covered...'
 - (e) Pg4/18 of agenda – Add 'One councillor parking permit per councillor' to the summary table for completeness.
 - (f) Pg4/18 of agenda – The second sentence under the summary table be amended to change 'three' to 'six' so that it reads 'Councillors must provide claims for reimbursement within six months of an expense being incurred.'
 - (g) Pg12/26 of agenda – Timeframe for Reimbursement: Section 11.15: Replace 'three months'

with 'six months'.

2. Receives a further report following the closure of the exhibition period.

AMENDMENT

Mover: Cr Kay
Seconder: Cr Goltsman

That the Motion be adopted subject to the draft policy being amended as follows:

1. Pg3/17 of agenda (General Travel Expenses) and Pg6/20 (section 6.2): Increase \$750 to \$1,000 per councillor, and for the Mayor.

THE AMENDMENT WAS PUT AND DECLARED LOST.

Division

For the Amendment: Crs Betts, Burrill, Goltsman and Kay.

Against the Amendment: Crs Copeland, Lewis, Masselos, O'Neill, Wakefield and Wy Kanak.

AMENDMENT

Mover: Cr Kay
Seconder: Cr Goltsman

That the Motion be adopted subject to the draft policy being amended as follows:

1. Pg9/23 of agenda – Special Requirement and Carer Expenses: Section 6.39: Add the following penultimate bullet point 'Attendance at miscellaneous events to a maximum of 48 hours per year' for attendance at events like the NIB awards, Business Forum, Business Awards, Sculpture by the Sea, citizenship ceremonies.

THE AMENDMENT WAS PUT AND DECLARED LOST.

Division

For the Amendment: Crs Betts, Burrill, Goltsman and Kay.

Against the Amendment: Crs Copeland, Lewis, Masselos, O'Neill, Wakefield and Wy Kanak.

AMENDMENT

Mover: Cr Kay
Seconder: Cr Goltsman

That the Motion be adopted subject to the draft policy being amended as follows:

1. Pg8/22 of agenda: Section 6.33: Add briefcase to the list of term-related items.

THE AMENDMENT WAS PUT AND DECLARED LOST.

Division

For the Amendment: Crs Betts, Burrill, Goltsman and Kay.

Against the Amendment: Crs Copeland, Lewis, Masselos, O'Neill, Wakefield and Wy Kanak.

AMENDMENT

Mover: Cr Kay
Seconder: Cr Goltsman

That the Motion be adopted subject to the draft policy being amended as follows:

1. Pg13/27 of agenda – Section 13 – In alignment with the currently endorsed Councillor Expenses and Facilities Policy, this section and any other related sections be rewritten to state that where

Councillors' purchase IT equipment and related items, either outright or under a plan, the equipment and related items remain the property of the councillor.

THE AMENDMENT WAS PUT AND DECLARED LOST.

Division

For the Amendment: Crs Betts, Burrill, Goltsman and Kay.

Against the Amendment: Crs Copeland, Lewis, Masselos, O'Neill, Wakefield and Wy Kanak.

AMENDMENT

Mover: Cr Kay

Seconder: Cr Goltsman

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

'Obtains independent legal advice before conducting a further workshop for all Councillors on the draft policy before the end of the public exhibition period to resolve outstanding matters, especially on ownership, and to ensure the workability and appropriateness of the policy'.

THE AMENDMENT WAS PUT AND DECLARED LOST.

Division

For the Amendment: Crs Betts, Burrill, Goltsman and Kay.

Against the Amendment: Crs Copeland, Lewis, Masselos, O'Neill, Wakefield and Wy Kanak.

THE MOTION WAS THEN PUT AND DECLARED CARRIED.

DECISION: That the Motion be adopted.

At 8.00 pm, the meeting was adjourned to allow the Strategic Planning and Development Committee meeting to be held. At 8.36 pm, the meeting reconvened with all Councillors present with the exception of Cr Keenan.

OC/5.3/18.03 Ocean Lovers Festival (A17/0607)

MOTION / UNANIMOUS DECISION

Mover: Cr Wy Kanak

Seconder: Cr Wakefield

That the item be deferred to the next Council meeting for an updated report that emphasises environmental issues and other issues raised by Councillors.

OC/5.4/18.03 Appointment of Councillor Members to Committees (A04/0335)

Immediately after the meeting, a motion to rescind this decision was lodged with the General Manager. The Rescission Motion will be considered by Council at its next meeting.

MOTION

Mover: Cr Wakefield

Seconder: Cr Wy Kanak

That Council appoints the following councillors to replace Cr Kay on the groups below for the remainder of the term ending on 27 September 2018:

1. Cr Wy Kanak as alternate member of the Sydney Coastal Council Group.
2. Cr Masselos as member of the Waverley Surf Life Saving Club Committee.
3. Cr Goltsman as Deputy Chair of the Waverley Access Committee.

AMENDMENT

Mover: Cr Goltsman

Seconder: Cr Kay

That the Motion be adopted subject to Cr Goltsman being appointed as alternate member of the Sydney Coastal Council Group, and Cr Wy Kanak being appointed as Deputy Chair of the Waverley Access Committee.

THE AMENDMENT WAS PUT AND DECLARED LOST.

THE MOTION WAS THEN PUT AND DECLARED CARRIED.

DECISION: That the Motion be adopted.

Division

For the Motion: Crs Copeland, Lewis, Masselos, O'Neill, Wakefield and Wy Kanak.

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

OC/5.5/18.03 Bondi Pavilion Community Stakeholder Committee Report - Forecourt and Curtilage (A16/0431)

Prior to the Amendment being moved, the Chair, Cr Copeland, declared a pecuniary interest in this item, vacated the Chair, and was not present at, or in sight of, the meeting for the remainder of the item. The Alternate Chair, Cr Lewis, assumed the chair for the remainder of the item.

MOTION

Mover: Cr Wakefield

Seconder: Cr Wy Kanak

That Council:

1. Receives and notes the attached report from the Bondi Pavilion Stakeholder Committee on the recommended uses and functions of the forecourt and curtilage of the Bondi Pavilion, and thanks the Committee for its work in preparing the report.
2. Notes that the recommendations will inform the development of a revised brief for the architects subject to:
 - (a) Ensuring that the western side curtilage and colonnade, including any new or improved waste facilities, prioritises safe pedestrian access to the Pavilion from Beach Road.
 - (b) The Heritage Council being consulted on whether the glass bubble at the north-eastern corner of the Pavilion be retained or removed.
3. Notes that further reports will come to Council on:
 - (a) The Bondi Pavilion Theatre.

- (b) Phase two of the Committee's program, including a vision statement and advice on the development of future cultural programming and artistic direction at the Bondi Pavilion.

AMENDMENT

Mover: Cr Betts
Seconder: Cr Nemesh

That the Motion be adopted subject to the addition of the following clause 2(c):

'The Southern Dolphin Court being available for commercial and free events where practical'.

THE AMENDMENT WAS PUT AND DECLARED LOST.

AMENDMENT

Mover: Cr Betts

That the Motion be adopted subject to the addition of the following clause 2(c):

'Acknowledges that the Crown Lands Act prohibits a person from residing on Crown Land and provides this information to the Stakeholder Committee and, as a priority, works with agencies such as Mission Australia and the homeless to find them alternate accommodation.'

THE CHAIR RULED THE AMENDMENT OUT OF ORDER ON THE GROUNDS THAT IT DEALS WITH A SEPARATE SUBJECT MATTER TO THAT OF THE MOTION.

THE MOVER OF THE AMENDMENT THEN MOVED A MOTION OF DISSENT ON THE CHAIR'S RULING THAT THE AMENDMENT WAS OUT OF ORDER.

THE MOTION OF DISSENT WAS PUT AND DECLARED LOST.

THE MOTION WAS THEN PUT AND DECLARED CARRIED.

DECISION: That the Motion be adopted.

Division

For the Motion: Crs Goltsman, Lewis, Masselos, Nemesh, O'Neill, Wakefield and Wy Kanak.

Against the Motion: Crs Betts, Burrill and Kay.

6. Urgent Business**Homelessness at Bondi Pavilion**

Cr Betts raised a matter of urgent business about homelessness at Bondi Pavilion. The Chair did not agree that the matter was urgent and therefore ruled that the matter could not be dealt with at the meeting.

CR GOLTSMAN, SECONDED CR KAY, THEN MOVED A MOTION OF DISSENT ON THE CHAIR'S RULING THAT THE MATTER WAS NOT URGENT.

THE MOTION OF DISSENT WAS PUT AND DECLARED LOST.

Division

For the Motion: Crs Betts, Burrill, Goltsman, Kay and Nemesh.

Against the Motion: Crs Copeland, Lewis, Masselos, O'Neill, Wakefield and Wy Kanak.

7. Meeting Closure

THE MEETING CLOSED AT 9.28 PM.

.....
SIGNED AND CONFIRMED
CHAIR
10 APRIL 2018

REPORT
OC/5.1/18.04

Subject: Dockless Bike Share

TRIM No: SF18/630

Author: Sara Stace, Manager Sustainable Transport
Carolyn New, Sustainable Transport Officer

Director: George Bramis, Acting Director, Waverley Futures

RECOMMENDATION:

That Council:

1. Notes that Council has sought legal advice on the various mechanisms that Council can use to regulate dockless bike share.
2. Notes the release of the Inner Sydney Bike Share Guidelines agreed by six councils and their mayors on 22 December 2017.
3. Notes the first three monthly review undertaken by the six councils on 22 March 2018 and the recommendations therein.
4. Continues working with other council and state government representatives to progress the recommendations and participate in the ongoing three-monthly review process.
5. Explores where additional bike parking areas in high usage locations are required, as well as potential security measures to protect against vandalism, with installation costs to be funded via operator contributions.
6. Continues to ensure the removal of bikes deemed to be unrideable or broken, through mechanisms such as impounding and the issue of clean up notices.
7. Continues public education about vandalism, road rules and safety, and correct parking of bikes in public places.
8. Notes the clean-up actions undertaken by Council staff on 5 March and 27 March 2018 which resulted in 122 bikes being impounded.
9. Notes the 2017 study into a docked bike system undertaken by three inner Sydney councils, which found that such a system would cost at least \$25 million to implement with significant subsidy required by governments.

1. Executive Summary

Since August 2017, four dockless bike share schemes have launched in Waverley, being Ofo, O-bike, Mobike and Reddy Go. These dockless bike share services are not owned or implemented by the councils.

During January and February there were 6,600 share bike rides a day undertaken in Inner Sydney, totalling 390,147 trips amongst 142,000 registered users. Within Waverley LGA, there were approximately 21,500 trips undertaken, averaging more than 360 trips a day.

Waverley Council is working closely with six inner Sydney councils – Inner West, Randwick, Woollahra, Canada Bay and City of Sydney. Jointly, they have released the Inner Sydney Bike Share Guidelines agreed by six councils and their mayors on 22 December 2017 (Attachment 1); and a three month review on 22 March 2018 (Attachment 2). These councils are also working with the Southern Sydney Regional Organisation of Councils (SSROC) to provide a coordinated response and with representatives of Transport for New South Wales.

In addition, Waverley Council has undertaken two clean-up and audit days where bikes that were deemed damaged and unrideable were impounded by Council staff. A total of 122 bikes were impounded and notices issued to the bike share operators.

Waverley Council has also sought legal advice to determine what, if any, legal avenues are available to Council to regulate or control the operations of bike share. Legal advice has considered the Environmental Planning and Assessment Act 1979 (EPA Act), Local Government Act 1993 (LGA), Roads Act 1993, Impounding Act 1993, and Protection of Environment Operations Act 1997 (POEO Act).

2. Introduction/Background

Dockless bike share was introduced in Sydney in mid-2017, and began to appear in Waverley LGA in August. This was an unprecedented approach to bike share and usage in Australia, which has had both positive and negative consequences.

In order to respond swiftly and appropriately to the rapid changes, six inner Sydney Councils have been working together to prepare a combined response. The councils have agreed that privately operated bike share is popular in Sydney, and a useful and welcome service, but local communities shouldn't bear the costs.

The Inner Sydney Bike Share Guidelines set out minimum standards and expectations for dockless bike share operations across the six council areas. The Guidelines were developed in consultation with the bike share operators, and adopted on 22 December 2017. The first three-month review was undertaken on 22 March 2018. A strong and clear set of recommendations has been laid out, based on community feedback, council staff observations, data provided by the operators and regular discussions with the bike share operators.

Data provided by the bike share operators shows that bike share is popular in Sydney, and growing rapidly. At the end of February 2018 there were 142,073 user registrations, and a total of 390,147 trips were made in January and February, averaging more than 6,600 trips a day. This was 4.5 times more than Brisbane's docked bike share scheme, which had 87,238 trips during the same period.

Data provided by the bike share operators showed that the most popular trip starting points in Waverley LGA were Bondi Beach (3,551 trips), Bondi Junction (1,700) and Bronte Beach (452). Note that only 'origin' data was provided by the bike share operators, not 'destination' data which would likely have shown Bondi Beach and Bronte Beach as very popular destination points.

While the data shows that bike share is popular in Sydney, there are significant issues that must be addressed if it is to become an effective, integrated part of the transport network.

Major issues raised in the initial three-monthly review include:

- Bike Parking
- Vandalism
- Helmet use
- Footpath riding.

The recommendations of the initial three-monthly review are:

- Identify and install new bike parking areas in high usage locations. Any installation costs to be funded via operator contributions and zones are to be available for the use of any share bike. Operators to strengthen incentives to users to utilise the new bike parking areas.

Waverley Council staff response: Council should explore where additional bike parking areas in high usage locations is required, as well as potential security measures to protect against vandalism, with installation costs to be funded via operator contributions.

- Insist on the removal of bikes that are deemed to be unrideable or broken. Operators to proactively identify and remove/fix damaged bikes; Councils may remove bikes without giving notice that are deemed to be unrideable or broken.

Waverley Council staff response: Council has undertaken two cleanup days in March 2018 resulting in 122 bikes being impounded with notices issued to operators. Council has also sought legal advice on the avenues available to regulate and control bike share operations. Council should continue to ensure the removal of bikes deemed to be unrideable or broken, through mechanisms such as impounding and the issue of clean up notices.

- Councils, operators and other stakeholders including NSW Police to work together on public education to reduce levels of vandalism and adherence to the road rules including mandatory helmet use.

Waverley Council staff response: Council staff to continue public education about vandalism, road rules and safety, and correct parking of bikes in public places.

- Additional recommendations:

- Guidelines to be developed into a Service Level Agreement, which all operators will sign up to with Councils and adhere to and which will set a framework under which to operate.
- NSW Government, operators and other leading industry experts to explore innovative ways in which helmets could be made more readily available for users.
- Operators to require users to provide credit card details upon sign-up to encourage responsible use.
- Transport for NSW, in partnership with Councils, to investigate the potential for introducing a permit system for dockless bike share, including the legal framework surrounding this.
- Geographical area in which the guidelines are operational is to be expanded to include additional inner Sydney councils
- Transport for NSW to take on the role of data custodian.

Waverley Council staff response: Council staff to continue working with other council and state government representatives on these matters.

3. Relevant Council Resolutions

Council or Committee Meeting and Date	Minute No.	Decision
Council 10/10/2017	CM/8.3/17.10 Bike Sharing (A17/0445)	<p>That Council prepares a report for the December 2017 Council Meeting regarding commercial bike-sharing in Waverley addressing the following:</p> <ol style="list-style-type: none"> 1. An assessment of the demand for such services and whether that demand is being met by the current providers. 2. The number and nature of current complaints from residents and others, and the action taken by rangers in response. 3. Recommended guidelines for operators and users. 4. Recommendations for additional enforcement terms if required including, but not limited to, financial penalties and impoundment. 5. Any further issues officers believe relevant, including the identification of locations for increased bike storage, in particular at our beaches and bus interchange, and recommended measures to address any shortfall.
Council 21/11/2017	PD/5.5/17.11 Bike Sharing – Response (A17/0445)	<p>That Council:</p> <ol style="list-style-type: none"> 1. Treats Attachment 2 to this report as confidential in accordance with section 11(3) of the <i>Local Government Act 1993</i>, as it relates to a matter specified in section 10A(2)(g) of the <i>Local Government Act 1993</i>. The attachment contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege. 2. Notes the significant public response to, and use of, bike-share schemes. 3. Notes the relatively small number of formal complaints received since commencement of operations. 4. Continues discussions with bike-share operators, neighbouring councils and the State Government about the response to dockless bike-sharing. 5. Continues to investigate the legal issues surrounding the impoundment of share-bikes. 6. Writes to the State Government requesting a co-ordinated response on bike-share operations.

4. Discussion

Data

Data provided by bike share operators during the initial three-month review period shows that bike share is very popular and growing rapidly. There are high rates of usage throughout inner Sydney, and Waverley Council area is popular with both locals and visitors.

The Guidelines provide clear expectations for the bike share operators to share a range of data with councils. The review found that some of the requested data was provided – but not all. There were considerable negotiations between the six councils, five bike share operators and representatives of Transport for NSW. Bike share operators voiced concerns about providing information that was considered commercial-in-confidence. It was agreed in the review recommendations that Transport for NSW should take on the role of data custodian.

Resident complaints

A total of 83 complaints and requests for removal of dockless share bikes have been lodged on Council's merit system in the 8 months since August 2017.

When a member of public contacts Council about dockless share bikes, the first response is to suggest that they contact the bike share operator directly. Council's website (www.waverley.nsw.gov.au/bikeshare) provides a visual guide and contact details for each of the operators. The Guidelines provide timeframes for response by operators, being:

- Dangerously placed: 3 hours
- Bike reported as unsafe: immediate (upon verification) to 1-7 days (depending on severity)
- Inappropriate bike density: 1-7 days (depending on severity)
- Illegally parked: 1-7 days (depending on severity)
- Unused bikes: 7-10 days.

Impounding

Waverley Council undertook two clean-up and audit days, on 5 March and 22 March 2018. Bikes that were deemed unrideable and broken were impounded by Council staff. A total of 122 bikes were impounded (58 on 5 March and 64 on 22 March) and notices issued to the bike share operators. Bikes were not impounded if they found to be in good condition and rideable, regardless of whether they had a helmet attached. Some bikes were moved by the staff if they were found to be parked in an inappropriate location. All instances of impounding were documented by council staff.

Council charges \$70 per impounded article, where the article requires two people to lift the item. At the time of this report, none of the bike operators had paid an impounding fee to retrieve a bike.

Legal advice

Waverley Council has sought legal advice to determine what, if any, legal avenues are available to Council to regulate or control the operations of bike share. Legal advice has considered the Environmental Planning and Assessment Act 1979 (EPA Act), Local Government Act 1993 (LGA), Roads Act 1993, Impounding Act 1993, and Protection of Environment Operations Act 1997 (POEO Act).

A summary of the legal advice provided is as follows:

Wilshire Webb Staunton Beattie: 19 October 2017

Environmental Planning and Assessment Act 1979 (EPA Act), Local Government Act 1993 (LGA), Roads Act 1993, and Impounding Act 1993:

- Bike sharing is an emerging form of transport which is not, at this stage, specifically regulated by the provisions of any legislation or statutory controls.
- Council has powers available under the Impounding Act 1993 that may assist in dealing with any unattended bike share bikes that are causing obstruction or another amenity impact. Under s.15 of this Act, abandoned and unattended articles can be impounded. An impounding officer may impound an article found in the officer's area of operations if the officer believes on reasonable grounds that the article has been abandoned or left unattended.
- In the event bike sharing operations give rise to issues such as the restriction of pedestrian movements or public safety concerns the provisions of the LGA and the Roads Act 1993 may be able to be utilised. Under s.107 of the Roads Act if a Council officer sees a person leaving a share

bike so as to cause an obstruction or an encroachment he or she can give a written or oral form and it is an offence to fail to comply with such a direction.

- Bike share operations do not appear to be an activity that requires the approval of Council under s.68 of the LGA except, perhaps, with respect to Item 1 in Part D – *Community land* on those occasions when bikes are left at or collected from community land. Council may explore the approval requirements with respect to the bike sharing operations if there is consistent and unreasonable use of specific community land for this purpose.

Malcolm Craig QC: 9 January 2018

- Agreed with the advice of 19 October 2017.
- Where a use is transient and likely to involve the short-term location of a bike or bikes the present provisions of the EPA Act are inept to address that situation.
- If the share bike operator sought to provide one or a number of bike docking locations for share bikes at locations, and such structures were located within the reserve area of a public road, then s.138 of the Roads Act would be engaged.
- The most clear legislative regime to offer a remedy for the issues identified is the Impounding Act.

Wilshire Webb Staunton Beattie: 16 March 2018 (preliminary)

Protection of Environment Operations Act 1997 (POEO Act):

- Clean-up notices or clean-up directions may be given with respect to damaged or non-functioning share bikes in circumstances where the share bikes or share bike parts have caused or are causing a pollution incident. The potential pollution incident would need to be assessed against the definitions of land pollution and water pollution set out in the Act.
- The dumping of damaged share bikes and share bike parts may constitute the offence of littering. Prosecutions for littering offences can be taken against a person who litters by dumping a damaged or non-functioning share bike. This person will not necessarily be the owner of the share bike.
- Clean-up notices, clean-up directions can only be issued to the person who has caused or is causing the pollution incidents. This person will not necessarily be the owner of the share bike.
- Clean up directions may be given orally and Council can recover the administrative costs of preparing and giving clean-up notices.

Other considerations:

- With regard to helmets, the fact a rider may use a share bike on a road without a helmet may render the rider liable to prosecution but any fine that is imposed would have to be paid by the rider rather than the supplier of the share bike. The lack of a helmet attached to an unattended bike does not in itself with nothing more render the share bike unrideable.

Docked Share Bikes

A 2017 study into a docked bike system was undertaken by three inner Sydney councils (City of Sydney, Randwick and Inner West Councils) which found that implementing a docked share bike system would cost at least \$25 million to implement with significant subsidy required by governments.

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: L7 People frequently walk and ride their bikes, particularly for local trips.
Strategy: L7a Create safe and accessible pedestrian and cycle links into, out of and within Waverley.
Deliverable: Availability of bicycle parking improved

6. Financial impact statement/Timeframe/Consultation

Staff resourcing: No specific costs have been allocated for the administration of dockless share bikes to date. However, there has been significant use of staff resources including a large proportion of time for Council's Sustainable Transport Officer, Strategic Transport Manager, and Manager Health and Compliance, in addition to time for executive staff, communications, customer service and rangers.

Impounding and clean-up notices: A total of \$8,540 has been invoiced for impounding of bicycles during March 2018. No clean-up notices have been issued to date.

Cost recovery: The recommendations outlined in the initial review of the six council's Guidelines include exploring avenues for cost-recovery from the bike share operators, including 'any installation costs [of bike parking] to be funded via operator contributions'; the development of Service Level Agreements; and investigating 'the potential for introducing a permit system for dockless bike share, including a legal framework surrounding this'.

7. Conclusion

The concept of share bikes provide benefits to help address transport and mobility within Waverley LGA. There have been ongoing concerns about the operations, and Council is working proactively to manage these in partnership with adjoining councils, SSROC, state government and the various bike share operators.

8. Attachments

1. Inner Sydney Bike Share Guidelines 22 Dec 2017
2. Inner Sydney Bike Share Guidelines - 3 Month Review - 22 Mar 2018

Guidelines for Dockless Bike Share Operators

Bike share has an important role to play in Sydney's transport future.

Councils, public landholders and bike share operators are committed to working together to establish a balanced position that achieves transport, environment, health and other related goals as well as the fair use of public space.

These guidelines set out minimum standards and expectations for dockless bike share operations in Sydney.

These guidelines will be in operation from 22 December 2017; Councils and relevant authorities will review operations every three months.

These guidelines apply across the six municipalities of: Canada Bay, City of Sydney, Inner West, Randwick, Waverley, and Woollahra.

1. Customer safety and conduct

- a. Operators must inform their customers through their apps about correct bike parking, bike safety checks and responsible riding.
- b. All operators and their customers must obey NSW road rules and consider the safety and comfort of other people on the road and footpaths.
- c. Operators must promote legal and responsible riding when customers join, and regularly afterwards. Riders are to be made aware that they can incur heavy penalties for offences such as not wearing helmets, unauthorised riding on footpaths, reckless riding and riding through red lights.
- d. Bicycles must comply with Australian Standards. When deployed all bicycles must have bells or other warning devices, helmets, front and rear lights, and a rear reflector as per Australian Standards. All bicycles must also have sturdy kickstands. Operators will make reasonable efforts to ensure bicycles are always equipped with helmets.
- e. Operators must encourage customers to reposition poorly located bikes.

2. Safe bike placement

- a. Bikes must be parked in an upright position and not placed on footpaths that are narrow, or where they could pose a safety hazard.
- b. Bike placement must not interfere with pedestrian access or amenity. Bikes should be placed kerbside away from the building. Operators will educate customers on the impacts of bike placement to mobility and vision impaired.
- c. Bikes may be placed near public bike racks but rack space should be left free for regular bicycles that need to be locked to a fixed point.
- d. Operators must have geo-fencing capability for preferred parking and exclusion zones in high traffic areas, such as sections of waterfront or for large events where public safety is an issue.

3. Distribution and redistribution of bikes

- a. All bikes should be equipped with GPS tracking.
- b. Operators must monitor the location of bikes at least daily.
- c. Operators must be proactive in the redistribution of bikes according to demand to avoid excessive build-up in an area.
- d. Operators must liaise with councils and other public landholders regarding bike deployment and preferred parking areas on an area by area basis. Councils and public landholders may nominate preferred parking areas in high demand locations.

Last updated: 20 December 2017

4. Faulty, damaged or misplaced bikes

- a. Faulty or damaged bikes must be removed or repaired within the timeframe set out below (see Part 9).
- b. Operators must enable easy reporting of faulty or damaged bikes, missing helmets or bikes parked in inappropriate locations, through their app, website, email and a fully dedicated phone number available 24/7. For out of hours phone calls, (outside 6am to 9pm seven days a week,) customers will have their enquiry followed up within the next day. Operators must work toward providing a phone service between 6am-9pm seven days a week.
- c. Operators must adhere to customer requests consistent with the timeframe set out below. Operators must work toward providing customers with a reference number that can be cited for ease of follow up on the phone, in email and in app.
- d. Operators must work toward having contact information clearly displayed and fixed on all bikes.
- e. Bikes must be easily identifiable at all times.
- f. Operators must provide a central point of contact to councils and other public landholders.

5. Legal and insurance

- a. Operators must have public liability insurance which names and indemnifies councils and other public landholders.
- b. Operators must seek legal advice with regard to ensuring their business complies with road rules, consumer protection (including privacy), insurance and road safety.
- c. Operators must advise customers of risks and insurances applicable to users.

6. Data sharing

- a. Operators must cooperate with councils and public landholders to share relevant data for the purposes of transport and urban planning.
- b. This data will be confidentially held unless authorised for public release by the bike share operator.
- c. This commercial-in-confidence data may include:
 - i. The number of registered users
 - ii. The total number of trips
 - iii. Trip origins and destinations, and trip duration (time and distance)
 - iv. The number of bicycles deployed and deployment locations
 - v. Bike redistribution numbers and patterns
 - vi. Data regarding damaged or lost bikes, and helmets replaced
 - vii. Customer service contacts and response times

Last updated: 20 December 2017

- d. This non-identifiable information may be aggregated for external promotion of bike share by landholders.
- e. Operators will work together with councils and/or public landholders to survey customers about share bike usage. The results will be used to promote bike share and inform transport planning.
- f. Operators will work towards live data portals to facilitate information sharing with public landholders.

7. Council staff access to bikes

- a. When requested, operators must access to bikes for council/landholder staff to unlock and move bikes (for example for park maintenance or event management).

8. Fees

- a. Councils and public landholders reserve the right to evaluate whether a fee or levy structure may be implemented so that operators make a financial contribution toward bike share infrastructure.

9. Collection and relocation of faulty or damaged bikes

If a member of the public or public landholder reports damaged, faulty, abandoned or inappropriately parked bikes the following timeframes apply.

Incident	Timeframe	Action
a. Dangerously placed	3 hours	Where a bike is causing an unreasonable hazard (i.e. parked across a road, carriageway etc.) the operator will relocate the bike within two hours. Council/public landholder may remove and impound the bike at any time to make area safe. The operator will be contacted at the time of any such action.
b. Bike reported as unsafe	Immediate (upon verification)	Upon verification of unsafe bike, operator will immediately deactivate bike.
	1-7 days (depending on severity)	Operator will check for safety/damage/faults and remove the bike from the public area.
c. Significantly damaged	Immediate (upon verification)	Upon verification of damaged bike, operator will immediately deactivate bike.
	1-7 days	Operator will check for

Last updated: 20 December 2017

Dockless Bike Share Guidelines

	(depending on severity)	safety/damage/faults and remove the bike from the public area
d. Inappropriate bike density	1-7 days (depending on severity)	Operator will be proactive in the redistribution of bikes
e. Illegally parked	1-7 days (unless escalated by council or public landholders)	Dependent on location of bike. (For e.g. private property, motorcycle or disabled parking)

10. Unused bikes

The following timeframes will help keep bikes moving and not left in one location for too long.

Timeframe	Action
1-7 days	No action. It is expected that bikes may not be used for a period of up to 7 days, particularly bikes left in quiet streets.
7-10 Days	The operator must relocate the bike or offer customer incentives to ride the bike to another destination.
11-14 days	If the bike has not been moved at the end of 11 days, a council/public landholder may instruct the operator to relocate the bike.
15+ days	The bike may be retrieved and impounded by council/public landholder. A fee may be payable for the release of the bike.
28 days after impoundment	The bike may be recycled by the local council.

11. Ceasing of operations

In the event that a dockless bike share operator ceases trading, the operator is obliged to remove all of their bikes from public places within 15 days.

12. Review of Guidelines

Councils and public landholders reserve the right to amend, expand and or alter these guidelines provided they give operators 14 days' notice prior to implementing the change(s).

Last updated: 20 December 2017

Inner Sydney Bike Share Guidelines – three month review 22 Dec 2017 – 22 Mar 2018

Background

The Inner Sydney Bike Share Guidelines set out minimum standards and expectations for dockless bike share operations across six council areas. Six councils developed the Guidelines in consultation with the bike share operators. The Guidelines were adopted on 22nd December 2017.

Councils, public landholders and bike share operators are committed to working together to establish a balanced position that achieves transport, environment, health and other related goals, as well as the fair use of public space.

At the time of issue it was agreed that the Guidelines would be reviewed every three months; this document sets out a summary of the initial review period from 22 December 2017 to 22 March 2018.

Review of Operations in first three months

Councils have reviewed bike share operations over the past three months and identified the major issues that have become apparent during this period. A strong and clear suite of recommendations for moving forward has subsequently been laid out. The review was based on community feedback, council staff observations and regular discussions with the bike share operators.

Data provided by the bike share operators shows that bike share is popular in Sydney. At the end of February there were **142,073 user registrations**, and a total of **390,147 trips** were made in January and February, averaging more than 6,600 trips a day.

For comparison, Brisbane's City Cycle scheme registered 87,238 trips in January and February 2017.

Central Station was the most popular location for bike share trips with 12,461 trips starting around the station during January and February. Other popular locations were Green Square station (5,181), Bondi Beach (3,551), UNSW (2,948), Newtown Station (1,731) and Rose Bay Wharf (1,296).

While the data shows that bike share is popular in Sydney, there are significant issues which must be addressed if bike share is to become an effective, integrated segment of the transport network that does not negatively impact on public amenity and positively contributes to a liveable, sustainable and connected city.

Major Issues

Bike Parking

Inappropriate parking of bikes is a major challenge. Dockless bike share is in its infancy in Australia and public awareness of its merits and how it works is low. The seemingly arbitrary and haphazard nature in which bikes can appear to be left across the city is causing concern with parts of the community viewing the bikes as abandoned, even though the vast majority are still in operation and

available for hire. Furthermore, some customers are leaving bikes in inconsiderate places which can have a serious impact on people with mobility issues.

In addition, operators have on occasion deployed bikes in excessive numbers in single locations.

Vandalism

Vandalism of bikes and bikes that are broken or in an unrideable condition is an increasingly common issue which can devalue the concept of bike share. This not only reduces the proportion of rideable bikes but adds to the view that the bikes are merely street clutter rather than being seen as a sustainable transport option. Operators have reported that vandalism is causing major concern and difficulty for their operations.

Helmet Use

The guidelines set out a requirement for all bikes to be deployed with a helmet attached and for operators to make reasonable efforts to ensure that bikes are always equipped with helmets. User experience and on-site observations have noted that many bikes are without helmets. Operators have reported that helmet theft is one of the most challenging issues facing them.

Whilst a large proportion of riders appear to be travelling without helmets, without wholesale amendment to the law on helmet use, particularly for share bikes, this issue will require an innovative approach to resolving.

Footpath Riding

Some riders are illegally riding on footpaths, perhaps because this may feel safer than riding on the road or perhaps because they are unaware of the state road rules.

Recommendations for moving forward

In light of the aforementioned issues, a suite of recommendations is set out below. Implementation of recommendations will proactively move bike share forward in Sydney; this is contingent on continued collaboration between Councils, operators and NSW Government. Recommendations are made in light of Councils' limited legal powers to address the challenges of dockless bike share and the lack of leadership shown by NSW Government to date, while acknowledging that bike share has many benefits to offer to Sydney.

Councils will continue to work with operators and other public landholders to balance the transport, environmental, health and economic benefits of bike share with the fair use of public space.

- ❖ Identify and install new bike parking areas in high usage locations. Any installation costs to be funded via operator contributions and zones are to be available for the use of any share bike. Operators to strengthen incentives to users to utilise the new bike parking areas.
- ❖ Insist on the removal of bikes that are deemed to be unrideable or broken. Operators to proactively identify and remove/fix damaged bikes; Councils may remove bikes without giving notice that are deemed to be unrideable or broken.

- ❖ Guidelines to be developed into a Service Level Agreement, which all operators will sign up to with Councils and adhere to and which will set framework under which to operate.
- ❖ NSW Government, operators and other leading industry experts to explore innovative ways in which helmets could be made more readily available for users.
- ❖ Operators to require users to provide credit card details upon sign-up to encourage responsible use.
- ❖ Councils, operators and other stakeholders including NSW Police to work together on public education to reduce levels of vandalism and adherence to the road rules including mandatory helmet use.
- ❖ Transport for NSW, in partnership with Councils, to investigate the potential for introducing a permit system for dockless bike share, including the legal framework surrounding this.
- ❖ Geographical area in which the guidelines are operational is to be expanded to include additional inner Sydney councils.
- ❖ Transport for NSW to take on the role of data custodian.

REPORT
OC/5.2/18.04

Subject: Southern Sydney Regional Organisation of Councils (SSROC) - Changes to Governance and Structure

TRIM No: A08/1115

Author: Jane Worthy, Internal Ombudsman

Director: Peter Monks, Acting General Manager

RECOMMENDATION:

That Council writes to South Sydney Regional Organisation of Councils (SSROC) to advise that based on the limited information provided about the proposed restructure of SSROC, Waverley Council is unable to determine its position on the proposal.

1. Executive Summary

The South Sydney Regional Organisation of Councils (SSROC) has sought the views of member Councils on a proposal to change the governance and structure of the organisation. The reasons for the proposed changes are twofold:

1. to create a Council of Mayors, supported by a Committee of General Managers; and
2. to comply with the requirements of the *Corporations Act 2001*.

On March 6 2018, SSROC provided member Councils with a document referred to as a "briefing paper" called "SSROC Council of Mayors and Incorporation" dated December 2017 (attachment 1) and a one page summary, called "Overview of the proposed SSROC Council of Mayors" (attachment 2).

The purpose of this report is to provide this information to Council for discussion and to provide feedback to SSROC on the proposed changes.

2. Introduction/Background

Formed in 1986, SSROC is an association of 11 councils which provides a forum through which the member councils can interact, exchange ideas and work collaboratively to solve regional issues and contribute to the future sustainability of the region. It also advocates on behalf of the region to ensure that the major issues are addressed by all levels of government and works to deliver shared services, contracts and procurement to reduce the cost to council of delivering vital community services.

Member Councils are Bayside, Burwood, Canada Bay, Canterbury Bankstown, Georges River, Inner West, Randwick, Sutherland, Sydney, Waverley and Woollahra and each Council has two Councillor delegates.

SSROC currently operates as an incorporated association under the *Associations Incorporation Act 2009*, but has been advised by NSW Fair Trading (Fair Trading) that because its revenues exceed the \$2 million threshold for an incorporated association it must take steps to change its structure to one that provides a more robust regulatory framework. Fair trading has suggested that a company limited by guarantee might be a more appropriate structure for the organisation.

Consideration of this matter had been deferred by agreement with Fair Trading because of amalgamations, however they are now seeking advice from SSROC by 31 March 2018 about how it plans to transition to a new governance structure.

Running alongside this issue SSROC held a joint meeting of delegates and General Managers in March 2017 to discuss a proposal to convert the organisation into a Council of Mayors, supported by a Committee of General Managers, with the view to strengthen its advocacy function. This also was deferred pending amalgamations.

The attached briefing paper provides a brief outline of both proposals and attempts to demonstrate how they are connected.

3. Relevant Council Resolutions

Nil.

4. Discussion

This is a complex proposal and the documents provided to Council do not address many of the critical legal and financial issues that need to be considered before Council could make an informed decision about whether it supports the proposal or not. Council officers sought further information from SSROC about the proposal but were advised that nothing more was available.

Given the initial proposal for the Council of Mayors was debated at a workshop early last year before the September elections and the establishment of the new amalgamated Councils, many of the current delegates are likely to be unaware of the details of how and why the changes are required and would work.

A quick review of other member Councils indicates that other Councils have not yet formally considered the matter and others have advised verbally that they haven't informally considered the proposals either.

Despite the deadline facing SSROC to alter its structure, it would be difficult for Council to make an informed view of the proposals and its potential impact on Council at this stage. Once more detail is provided Council will be in a better position to assess whether it supports the proposals and what options would be available to Council should it not agree with the proposals.

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:	G4 Coordinated, efficient and effective services are delivered through the most appropriate agencies and partnerships.
Strategy:	G4c Pursue and participate in regional resource sharing and partnership initiatives which provide community benefits.
Deliverable:	Participation in partnerships and projects through SSROC.

6. Financial impact statement/Timeframe/Consultation

The financial impacts of the SSROC proposal on Council is unknown at this stage.

7. Conclusion

It is recommended that Council advises SSROC that based on the information provided on the proposals to convert SSROC into a Council of Mayors and to become a company limited by guarantee it is not in a position to determine a position on the proposal.

8. Attachments

1. SSROC Proposed Restructure - Covering Letter from President
2. SSROC Proposed Restructure - Overview
3. SSROC Proposed Restructure - Briefing Paper - NOT FINAL



6 March 2018

Dear Mayors, Delegates and General Managers

At SSROC's Meeting on 15 February 2018, it was agreed that I write to the Mayors and Delegates of all member councils seeking their council's input into the consideration of changes to SSROC's governance and structure by establishing a Council of Mayors.

Delegates, administrators and General Managers agreed to establish a Council of Mayors at a workshop in March 2017. It was understood that any final consideration and implementation could only be made once all councils were back in place and had appointed Delegates to SSROC. The attached briefing paper and one-page summary, detail the conclusions of the workshop and puts forward options for establishment of a Council of Mayors.

The briefing paper is also influenced by the need for SSROC to change its corporate status, as NSW Fair Trading has advised that the organisation's income and/or total assets had exceeded the financial threshold of \$2M therefore, it is too large to function as an Incorporated Association regulated under the Associations Act.

I ask that you take the briefing paper and summary to your councils for discussion and provide the SSROC Secretariat with a summary of your council's deliberations and conclusions as soon as practicable.

If you require any further information, please do not hesitate to contact me or the General Manager of SSROC, Namoi Dougall on 8396 3800.

Yours faithfully

John Faker
President
Southern Sydney Regional Organisation of Councils

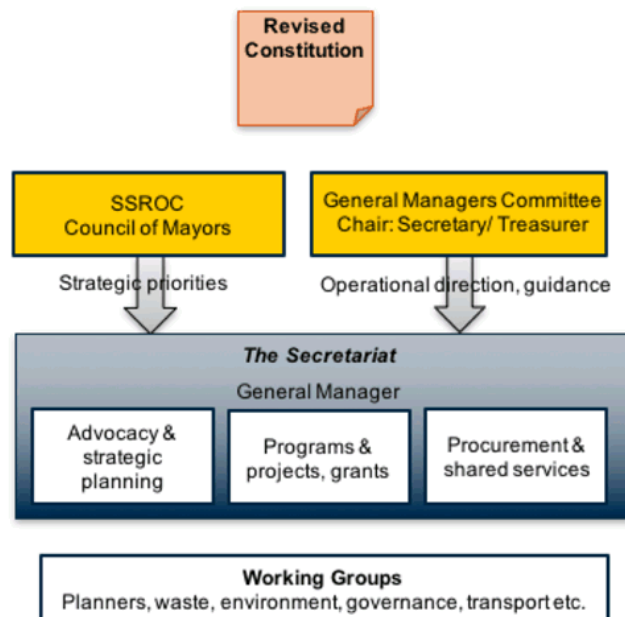
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Overview of the proposed SSROC Council of Mayors



Proposal

Under a revised **Constitution** establish a **Council of Mayors**, whereby all ROC Delegates are Mayors, and one of whom is elected **President**.

Each Mayor may nominate an Alternative Delegate, preferably the **Deputy Mayor**.

The **Executive**, comprising the President, 2 other elected Mayors, the Secretary and the Treasurer (General Manager/s) makes out-of-session decisions and directions when necessary.

The **General Managers** Committee provides day-to-day operational direction to the **Secretariat**.

Councillors of all member Councils may participate in issue-based Working Groups such as the drafting of **regional policies** and **advocacy** for southern Sydney.

This proposal is for consideration at the next ordinary meeting of SSROC Delegates. It originated with the Sturges Report of February 2014, which proposed a similar model to re-frame the ROC to increase its effectiveness as an advocacy body, by establishing a platform for the region's Mayors to collectively promote the interests of southern Sydney.

The South-East Queensland Council of Mayors is an example (seqmayors.qld.gov.au).

SSROC Transition Options



SSROC Council of Mayors and Incorporation

December 2017

Southern Sydney Regional Organisation of Councils Incorporated
(SSROC)

ABN 54 485 603 535

SSROC Transition Options

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SSROC Transition Options

1 Introduction

Establishing a Council of Mayors, supported by a Committee of General Managers, was chosen as the model for the ROC in future at a joint meeting of Delegates and General Managers in March 2017.

Council mergers at that time prevented further progress on the establishment. Now that the mergers have been proclaimed and the new councils duly elected, SSROC can proceed with this change.

The Southern Sydney Regional Organisation of Councils Inc (SSROC) is a collaboration of 11 councils in southern Sydney:

- Bayside Council
- Burwood
- City of Canada Bay
- Canterbury Bankstown Council
- Georges River Council
- Inner West Council
- Randwick City
- Sutherland Shire
- City of Sydney
- Woollahra
- Waverley

A Council of Mayors would greatly strengthen SSROC's advocacy function by ensuring that all Mayors actively participate in the development of policy positions. A Council of Mayors representing over 1.7 million people, or a third of the population of Sydney, could be a formidable influence in decision-making about and application of policies to the area.

2 Purpose

The purpose of this document is to put forward options for the establishment of the Council of Mayors.

This document is for the use of General Managers, Delegates and other relevant stakeholders considering the future of SSROC.

3 Proposed Model

The proposed model is represented graphically at figure 1. The existing ROC would be replaced with a Council of Mayors, supported by a new General Managers Committee.

SSROC Transition Options

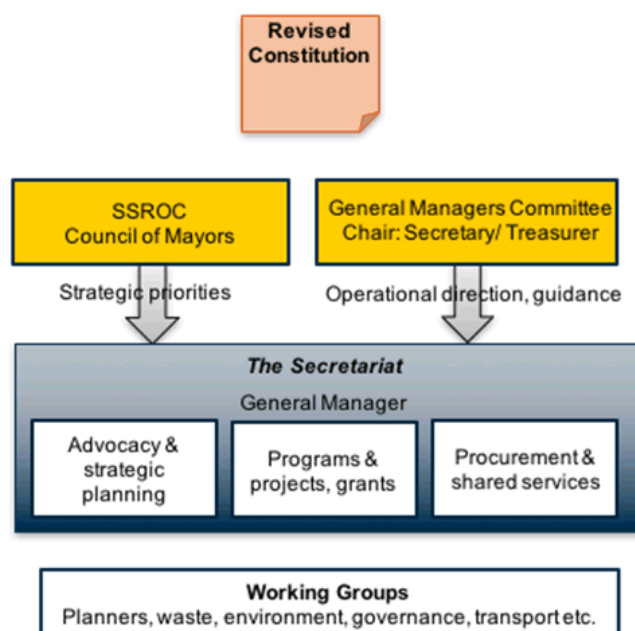


Figure 1 Council of Mayors

3.1 Council of Mayors

Converting the ROC into a Council of Mayors, is intended to establish a powerful strategic voice for southern Sydney. It would be intended to have sufficient influence to merit regular meetings with the Premier to address key objectives of the metropolitan plan, regional issues and policy development.

The state government's reform of the local government sector has aimed to develop within councils the strategic capacity required for an effective two-way partnership, enabling them to make much earlier contributions to the development of state policies.

When delegates, administrators and General Managers considered future options for SSROC at a facilitated workshop in March 2017, concerns were raised about the time that mayors would need to commit time to the Council of Mayors. For the Council of Mayors to be really effective, a time commitment would be necessary. It should be noted that, as delegates to SSROC, councillors already have a commitment to the region and to date no conflicts of duty have been identified as a result. The objectives of the Council of Mayors would be consistent with those of the ROC, and so the Constitution need not necessarily change (see box 1).

SSROC Transition Options

Box 1 SSROC Constitution, section 2.

2. Objectives

- i. To consider and assess the needs, disadvantages and opportunities of member Councils and of the Southern Sydney Region; to make representations, submissions and promotions relative to meet such needs, disadvantages and opportunities to Commonwealth and State Governments and Departments, Statutory Authorities and other appropriate bodies or individuals.*
- ii. To submit to such Governments and other appropriate bodies, requests for financial assistance, policy changes and additional resources for the region or for member Councils.*
- iii. To strengthen the role of Local Government in regional affairs, particularly where the region may be affected by Australian or NSW Government policy.*
- iv. To facilitate a co-operative approach to the problems, opportunities and challenges of the region and to projects which benefit the region.*
- v. To facilitate the exchange of ideas and experience between elected members and professional and technical staff to enable a joint approach to the development of skills and expertise within member Councils; and*
- vi. To advance the interests of the region.*

It was also noted at the workshop that all SSROC delegates would have to be mayors and alternatives would have to be deputy mayors. This would require a change to the Constitution, which currently only requires Council to appoint two delegates “one of whom should be the Mayor or the Administrator”.

It was agreed at that workshop that the Councils of Mayors model should be progressed, and that the issues raised could be resolved as it became effective.

Advantages:

- Could be a very powerful advocacy force.

Disadvantages:

- Increases the workload of mayors and deputy mayors,
- Reduces participation of other councillors,
- Depends upon availability of mayors and deputy mayors.

3.2 General Managers Committee

The Constitution already requires that Delegates elect General Managers to the positions of Secretary and Treasurer. To date the two roles have been combined and taken on by one General Manager. The Constitution would also require that the Secretary/Treasurer would be the Chair of a new General Managers Committee.

Currently, the General Managers meet 10 times each year, to discuss issues of common interest and to deal with SSROC matters arising as required. The

SSROC Transition Options

formalisation of their role as a Committee of SSROC would give them greater oversight of the operations and finances of the Secretariat, and the opportunity for greater influence over the allocation of resources and the realisation of benefits by their Councils.

Advantages:

- Formalises the role that General Managers effectively play already,
- Increases the influence of General Managers over SSROC operations,
- Maintains strong alignment of SSROC priorities with those of member councils.

Disadvantages:

- Increases the dependence of the Secretariat on the active participation of member council General Managers.

3.3 Committees

The existing Program Delivery and Sustainability Program Committees were established to consider issues arising that are relevant to the regional, and to advise Delegates on those issues. In recent years, the work of the two committees has overlapped to the extent that it became more practical for them to meet as one. The timing, originally 2 weeks before each Ordinary Meeting of Delegates, did not align easily with the meetings or with the nature of issues being raised.

Under this proposal, the existing committees would cease to exist. A more responsive and flexible approach to getting advisory input from Councillors is proposed, with committees established to focus on specific issues (for example, the SEQ Council of Mayors had a committee solely for the Commonwealth Games bid). The committee could be wound up at the resolution of the issue. An advocacy committee could be responsible for reading submissions out-of-session to provide guidance, but with the provision that the Board would have the final say on all advocacy.

This change would require the Delegates (and potentially other Councillors) to endorse the approach, and to work with their colleagues to manage each Council's participation in responding to regional issues.

In the March 2017 workshop, there was discussion about the role of the committees, and the need for them to have a specific purpose such as a project or issue was agreed. However, they would only be advisory, and decisions would be made by the Council of Mayors.

There was also keenness for regular teleconferences rather than face-to-face meetings, which would improve flexibility for more active participation.

Advantages:

- Increases the participation of councillors in advocacy and other initiatives.

Disadvantages:

- Requires greater involvement and flexibility from councillors.

3.4 Secretariat

The SSROC Secretariat would remain unchanged day-to-day, but would have increased accountability to the General Managers of the Councils. The most important change would be a much more influential advocacy function as a result of having the strength of the Council of Mayors and input from Councillors.

SSROC Transition Options

The Secretariat's other functions could be better aligned with Councils' priorities as a result of the strengthened General Managers' role.

4 Membership Fees

Councils annual subscriptions to SSROC have increased as a result of the total cost of the secretariat being shared between 11 councils instead of the former 16. Each council pays the same fee for full membership, and each has equal voting rights and opportunities to participate in programs and projects.

Associate members pay less, but have not voting rights and would not be represented on the General Managers Committee. There are currently no associate members.

Since each Council has equal voting rights and access to the same services, it is proposed to continue to share the costs equally between all member Councils.

Advantages:

- Maintains equity between member councils,
- Proportionately lower membership costs for merged councils.

Disadvantages:

- Proportionately higher membership costs for councils that have not merged.

5 Operational Scale

SSROC is currently regulated by the Office of Fair Trading (OFT) under the Associations Act, but its revenues exceed the \$2 million threshold for an Incorporated Association. While much of this revenue has passed through the organisation as grant funding for specific projects or initiatives, much is also generated through procurement, and it can be a substantial sum: in 2015 income was \$3.4 million.

In September 2016 NSW Fair Trading, which administers Incorporated Associations under the Department of Finance, Services and Innovation, wrote to SSROC stating that it is "appropriate that the Association now takes steps to transfer registration to another more appropriate corporate structure, such as cooperative or a company limited by guarantee, which provides a more robust regulatory framework."

The Secretariat has acknowledged the letter, explained the practical difficulties of changing status at this time of change among our member Councils, and has been allowed to continue to operate as an Incorporated Association SSROC until after the 2017 elections and the AGM in November 2017.

The Secretariat will therefore need to change its corporate status irrespective of any other changes, and is required to update Office of Fair Trading (OFT) by 31 March 2018 of its plan to transition to an appropriate corporate status.

OFT has suggested that a company limited by guarantee might be a more appropriate regulatory framework.

While the establishment of the Council of Mayors is independent of this issue, the changing the incorporated status of SSROC does need to be influenced by the future needs and plans of the Council of Mayors.

Therefore, an overview of the major issues associated with the need to change the incorporated status of SSROC is the subject of the paper attached at Appendix 1.

SSROC Transition Options

Appendix 1 SSROC Incorporated Status

SSROC has been an Incorporated Association since its inception in 1986. As an Incorporated Association, it operates under the *Associations Incorporation Act 2009* (NSW) and *Associations Incorporation Regulation 2016* (NSW), administered by the Office of Fair Trading (OFT).

On 13 September 2016, the OFT wrote to SSROC's General Manager as public officer of SSROC, pointing out that the *Associations Incorporation Act 2009* sets a financial threshold for Incorporated Associations of \$2 million in income and/or total assets. SSROC, as an Incorporated Association, was significantly in breach of this threshold with reporting income in 2014/15 of \$3.4 million and total assets of \$5.3 million.

OFT suggested that a company limited by guarantee might be a more appropriate regulatory framework. The required SSROC to advise Fair Trading by 31 October 2016 of its intended course of action.

On 31 October 2016, SSROC sought to postpone any decision until after council's mergers and the September 2017 elections, because:

- several member councils at that time had Administrators,
- the Joint Organisation model had emerged, which would have implications for the decision-making process,
- much of the revenue comprised grant funding that could not be relied upon for future years.

The current status of the SSROC was noted by OFT, which agreed to a further review of the position after the council elections and AGM to be held in November 2017. An update of the position following these actions is required by 1 February 2018.

The General Manager further advised that at October 2017, SSROC did not have a President, and that the new Executive would be elected at the AGM on 16 November 2017: with no further meeting anticipated until mid-February, undertook to provide an update thereafter. OFT agreed to extend this deadline to 31 March 2018, and require that the update include an outline of the timeframe for transition and of steps taken to date.

Incorporation Issues

Company Limited by Guarantee

(This section is based on legal advice from Henry Davis York.)

A company limited by guarantee is a type of public company that can operate anywhere in Australia. It can perform all the powers of a body corporate, can enter into contracts and can sue and be sued in its own name. It has perpetual succession, is governed under the Commonwealth *Corporations Act 2001*, and regulated by the Australian Securities & Investments Commission (ASIC).

A company limited by guarantee is not required to have a constitution and may instead rely on the "replaceable rules" contained in the Corporations Act. However, it is common practice for a company limited by guarantee to adopt a constitution which allows it to modify or exclude the replaceable rules to suit its own needs. A copy of the constitution must be lodged with ASIC.

The company must have at least one company secretary and at least three directors. It must have at least one member, and there is no maximum number of members.

SSROC Transition Options

The liability of each member is limited to the amount that member has agreed to contribute on the dissolution or winding up of the company, if the company's assets are not sufficient to discharge its debts or liabilities. This amount is fixed on incorporation and is often only a nominal amount.

Companies limited by guarantee have more onerous financial and other reporting requirements than incorporated associations do. With an annual consolidated revenue of more than \$1 million (as SSROC does), they are required to:

- prepare a financial report;
- have the financial report audited;
- prepare a directors' report, although with less detail than that required of other companies; and
- give annual reports to any member who elects to receive them.

The major advantages and disadvantages are:

- a) an incorporated association is governed by the legislation of the state or territory in which it is registered. As such, the obligations and requirements of an incorporated association can differ between the states and territories. Conversely, a company limited by guarantee can operate anywhere in Australia under a single act, the Corporations Act;
- b) the more robust regime of directors' duties and reporting obligations required of a company limited by guarantee may be beneficial for corporate governance purposes as SSROC grows. Greater levels of corporate governance are appropriate for an entity which may be dealing with a substantial amount of revenue and this will provide member Councils within SSROC, and persons who deal with SSROC, higher levels of assurance in respect of its administration;
- c) in addition to the costs of incorporation, the costs of operating a company limited by guarantee are higher (e.g. a company limited by guarantee must pay an annual review fee to ASIC in the amount of \$1,176); and
- d) an incorporated association that has gross receipts of more than \$250,000 or current assets of more than \$500,000 must submit audited financial statements each year to the members at an annual general meeting. Conversely, a company limited by guarantee with revenue of less than \$1 million can elect to have its financial report reviewed, rather than audited which is a less onerous process. A company limited by guarantee with annual revenue over \$1 million must have a financial report audited.

Non-Profit Status

At a workshop on 16 March 2016 Delegates discussed options to change SSROC's structure and governance. Delegates agreed that changes should:

1. Strengthen SSROC's advocacy function by establishing a Council of Mayors.
2. Retain the existing shared services functions of procurement, program management and internal audit.

This implies that it will be necessary to retain SSROC's non-profit status, as this is frequently a requirement to qualify for grants, and lends weight to advocacy programs by demonstrating that the organisation has no vested interests.

However, the business services of procurement, internal audit and business consultancy might be better suited to a different structure.

SSROC Transition Options

These two aspects of SSROC and its secretariat will need to be reconciled.

Structural Implications

(This section is based on legal advice from Henry Davis York.)

Membership of SSROC would remain unchanged. The existing requirement for each council to nominate two delegates could be accommodated. Assuming that the Council of Mayors model is adopted, then the Constitution would need to be amended to require those delegates to be the mayor and deputy mayor.

The new constitution could implement a structure whereby the Mayor of each member Council is appointed as a director of the company, although a board of 11 directors would be unusually large, and could become unwieldy.

The existing Executive arrangement could be preserved, although we note that the Corporations Act provides that key management personnel may be considered for the purposes of Act de facto or shadow directors if they overstep their usual role.

The constitution of a public company limited by guarantee typically provides that to the extent permitted by law every person who is or has been a director, company secretary or executive officer of the company is indemnified out of the property of the company against any liabilities for costs and expenses incurred by that person in certain circumstances.

Directors

Concern was raised at the workshop in March 2017 as to whether mayors (if they become directors of the board) under a corporate structure will have the time and experience to be an elected representative and also the director of a company.

General Managers have expressed concern that, if they became directors of a new SSROC Company Limited by Guarantee, there would be conflict between their duties as directors and their duties as council General Managers.

The same potential for a conflict between duty to the ROC and duty to the Council already exists under membership of SSROC. To date there have been no reports of any such conflict arising.

The inclusion of some independent directors might be a better option, as they could be more flexible in the role and could focus on making the business a success.

Prescription

The issue of prescription has often been raised in relation to procurement. Sometimes, it would be more practical and cost-effective for SSROC to be able to accept tenders on behalf of member councils.

The main example of such circumstances is electricity tendering, when prices are only held for a maximum of 48 hours. It is not practical to obtain each participating council's individual acceptance in that time-frame, yet the aggregation of the supply drives the best pricing for this commodity. However, Councils can only delegate the acceptance of tenders to a prescribed organisation. Procurement Australia is used to enable this process because it is a prescribed body under the Local Government Act and Regulation, but that service is a cost that could be avoided if SSROC were able to accept the tender.

The Office of Local Government has recently advised that, as a company limited by guarantee, SSROC could seek prescription. The secretariat has asked for clarification of this and of the steps that would be involved. Hunter Councils intend to pursue prescription for its procurement operation.

SSROC Transition Options

Possible Business Models

SSROC is not unique in facing these challenges, and can learn from the ways in which other comparable organisations have overcome them. Hunter ROC has established and WSROC is currently implementing, new models for their operations.

WSROC

Attached (1) is the structure that WSROC is implementing immediately, and attached (2) is the structure that WSROC wants to achieve in the long term, taking into account the possibility of metropolitan joint organisations.

Hunter Councils

Hunter Councils is an incorporated association, a pilot Joint Organisation (JO), and is the advocacy body for 11 Councils. The Board consists of the Mayors of each of the 11 Councils. Although, in relation to the governance of the pilot JO, the evaluation report noted that the governance structure was not effective as meetings were either poorly attended or there were up to 30 representatives of differing political persuasion and status which were also a mixture of permanent and non-permanent delegates. Their aim is to improve their governance by having only Mayors as Board Members with no alternative members.

The businesses of Hunter Councils are held in companies limited by guarantee; Strategic Services Australia Limited and Hunter Councils Legal Services Limited. Those businesses are:

- | | |
|---------------------------------------|-----------------------------------|
| • Real Film Festival | • Strategic Services Australia |
| • Local Government Training Institute | • Hunter Records Management |
| • Screen Hunter | • Upper Hunter Taxis |
| • Regional Procurement | • Hunter Records Storage |
| • Regional Procurement Initiative | • Local Government Legal Services |

The CEO of Hunter Councils has advised that the JO pilot was a “bit of a non-event” as they already work together and have a structure. However, DPC now attend all their meetings and the government agencies are very engaged.

Hunter Councils intend to keep the companies as they are now that the relevant legislation has been passed. The advocacy body, Hunter Councils, will probably become the joint organisation.

Recommended Approach

The Secretariat recommends the following work streams to enable it to transition to support and achieve the aims of the Council of Mayors, while also satisfying the requirement of the OFT that SSROC changes to a corporate status that is suitable for its scale.

Work Stream 1: Roles and Responsibilities

The company limited by guarantee requires specific roles to be filled: members, directors, company secretary and public officer. A decision needs to be made as to whether the secretary becomes a director.

These roles need to be reconciled with the requirements of the preferred business model of Council of Mayors with Committee of General Managers.

SSROC Transition Options

It will be necessary to spell out the accountabilities, responsibilities, benefits and general expectations of each role, and to convey these to the potential position-holders. This may include obtaining further advice on directors' duties including employment and tax law issues.

The "candidates" will then need to be consulted as to their willingness to fulfil the role that has been identified for them, and any training or skills development needs identified.

The mechanisms need to be identified whereby the core business functions of advocacy, shared services/procurement and program/project management are given direction. Any other enablers required (e.g. technology, committee design) will also need to be identified and addressed.

Responsible: Secretariat and consultants, with Executive and General Managers.

Work Stream 2: Communications

The Delegates are busy and it can be difficult for them to find time to engage on issues that are complex and not directly related to their role as Councillors. It will be necessary to find a way to explain the reason for the changes, why the changes matter to them, and how we plan to achieve them.

The objective of this stream will be to ensure that the new Constitution/Replaceable Rules and the transfer to a company, will be approved by a fully engaged and informed SSROC special resolution when relevant meeting occurs.

Responsible: consultants, as it might be helpful to have this done by someone seen as independent of Secretariat, GMs and Councillors.

Work Stream 3: Drafting the Constitution

The new company and Council of Mayors will need to be reflected in the terms of the Constitution and/or Replaceable Rules, as well as conforming to the Corporations Act and ASIC requirements.

The key issues and themes that arise in the drafting will need to be resolved by consultation with the relevant stakeholders, and explanation/justification conveyed through the communications channel.

Responsible: Secretariat and Henry Davis York

Work Stream 4: Process

A special resolution would be required from an Ordinary Meeting of the ROC and the procedure for transitioning to a company limited by guarantee would have to be followed, including transferring registration, applying to the Australian Securities and Investments Commission (ASIC) to transfer incorporation to a company, notifying Registry Services, and updating all records (e.g., bank accounts, tax authorities, funding bodies).

The process of transfer will need to be managed, including:

- maintaining 'not for profit' status and pay roll tax exemption
- completing the application to transfer,
- deciding the approach to ABN
- identifying all parties that need to be notified
- ensuring that each notification is correctly handled.

Responsible: accountants

SSROC Transition Options

Work Stream 5: Additional advice needed

The advice from Henry Davis York is black-letter law, which is required to explain the processes needed, but will need to be considered in light of the main rationale for SSROC of providing community benefit.

During the transition process, more questions will arise that will need further advice and decisions. Below are some that have already arisen:

- Is there a conflict, and if so, how can it be managed with Mayors representing their LGA and representing the region?
- What can be done with monies earned beyond what is needed to run the Secretariat?

SSROC Transition Options

Attachment 1 SSROC Constitution

This section comprises the Constitution in full.

Constitution of the Southern Sydney Regional Organisation of Councils

1. Name

The name of the Organisation is the Southern Sydney Regional Organisation of Councils, hereunder referred to as "the Organisation".

2. Objectives

- i. To consider and assess the needs, disadvantages and opportunities of member Councils and of the Southern Sydney Region; to make representations, submissions and promotions relative to meet such needs, disadvantages and opportunities to Commonwealth and State Governments and Departments, Statutory Authorities and other appropriate bodies or individuals.
- ii. To submit to such Governments and other appropriate bodies, requests for financial assistance, policy changes and additional resources for the region or for member Councils.
- iii. To strengthen the role of Local Government in regional affairs, particularly where the region may be affected by Australian or NSW Government policy.
- iv. To facilitate a co-operative approach to the problems, opportunities and challenges of the region and to projects which benefit the region.
- v. To facilitate the exchange of ideas and experience between elected members and professional and technical staff to enable a joint approach to the development of skills and expertise within member Councils; and
- vi. To advance the interests of the region.

SSROC Transition Options

3. Membership

- i. Membership of the Organisation is composed of, but not restricted to, the following Councils:-

Ashfield Council
Bankstown City Council
Botany Bay City Council
Burwood Council
City of Canada Bay
City of Canterbury council
City of Sydney council
Hurstville City Council
Kogarah City Council
Leichhardt Council
Marrickville Council
Randwick City Council
Rockdale City Council
Sutherland Shire Council
Waverley Council
Woollahra Municipal Council

- ii. A register of members will be kept at the principal place of administration of the association.

4. Representation

- i. A member Council will be represented on the Organisation by two delegates.
- ii. A member Council shall annually appoint two persons representing the Council to the Organisation, one of whom should be the Mayor or the Administrator. Each such delegate may hold office until the appointment of his/her successor.
- iii. The office of delegate shall become vacant if the delegate:-
- (a) ceases to hold office at his/her Council;

SSROC Transition Options

- (b) resigns by letter addressed to the delegate's Council;
 - (c) is absent from three consecutive meetings of the Organisation without having obtained leave of absence from the Organisation; or
 - (d) is replaced by his/her Council at any time.
- iv. Where the office of a delegate becomes vacant, the Council shall appoint another delegate.
- v. Where either delegate of a Council is unable to attend a meeting of the Organisation, the Council may be represented by another member of the Council duly appointed for the purpose of being an alternative delegate. Such other member may, during the absence of a delegate of his/her Council, act in his/her place and be subject to vacation of the position in the same way as the delegate.

5. Meetings

- i. The delegates shall hold ordinary meetings of the Organisation at least every three months and the meeting held during November shall be the Annual General Meeting. The delegates may also hold special meetings of the Organisation as and when required.
- ii. The Financial Statements and Annual Report of the Organisation shall be submitted to a meeting of the Organisation to be held not 30 November each year.
- iii. Meetings shall be held, in turn, at an office of each member Council or as decided by the Organisation.
- iv. The Secretary shall notify each member Council and delegate of meetings not less than 7 days before each meeting and of the nature of the business to be dealt with at the meeting and, in the case of Special Meetings, 48 hours notice must be given.
- v. The Secretary shall send minutes of each meeting to each member and delegate not more than fourteen days after the meeting.
- vi. At every meeting of the Organisation the President shall preside but if he/she is not present the Senior Vice President shall preside; if he/she

SSROC Transition Options

is not present the Junior Vice President shall preside or if he/she is not present the members shall elect a Chairman to preside at that meeting.

- vii. Any elected representative of a member Council may attend and speak at meeting of the Organisation. Any senior officer of a Council which is a member may also attend and speak at meetings of the Organisation with the consent of a delegate of his/her Council and the President or meeting Chairman.
- viii. A Special Meeting of the Organisation may be called by:
 - (a) The President
 - (b) Notice to the Secretary signed by three delegates.

6. Voting

- i. At meetings of the Organisation each delegate, and each bona fide alternative delegate representing a delegate, shall be entitled to vote. Each member Council shall therefore have two votes.
- ii. The President shall have both a deliberative vote and, in the event of equality of votes, a casting vote, other than in the election of President. Senior Vice President, or Junior Vice President.
- iii. The election of the Executive being the positions of:
 - (a) President
 - (b) Senior Vice President
 - (c) Junior Vice President

shall be conducted in accordance with the provisions of the Local Government Act for the election of Mayor and Deputy Mayor.

7. Quorum

- i. A quorum at a meeting of the Organisation shall consist of a number being at least half the number of member Councils.
- ii. A quorum of a Standing Committee of the Organisation shall be two.

SSROC Transition Options

8. Business at Meetings

The business conducted at a meeting of the Organisation shall consist of:

- i. Matters of which due notice has been given by a member Council or delegate.
- ii. Matters which the President determines to be of urgency;
- iii. Consideration of recommendations, reports and correspondence;

and otherwise as the meeting by majority vote may decide from time to time.

9. Procedure

The procedure at a meeting of the Organisation shall be in conformity as far as possible with the procedure for meetings of Council and Committees as prescribed by the Local Government Act 1993 and the Local Government (Meetings) Regulation 1993 subject to such arrangement as may be made from time to time by the Organisation.

10. Powers of the Organisation

- i. The Organisation shall, for the mutual benefit of the member Councils have power, in accordance with this Constitution, to:-
 - (a) Make submissions to the Australian and New South Wales Government or any department of those Governments, or other organisations, in respect of the areas of the member Councils;
 - (b) Carry out the objectives of the Organisation; and
 - (c) Receive funds in respect of the:-
 - i. staffing of the Organisation;
 - ii. carrying out of projects or studies agreed by the Organisation;
 - iii. for any purpose that may be authorised by the Organisation.

SSROC Transition Options

- ii. These powers shall not affect the right of an individual Council acting in its own right on any matters.
- iii. The control, regulation, maintenance and management of the exercise of these powers is vested in the meetings of delegates in accordance with the constitution subject to any delegation of authority which may have been granted.
- iv. By resolution, and within limits defined in such resolution, to authorise the Executive, a member Council representative, a staff member or a properly appointed sub-committee consisting either whole or in part of elected representatives, staff or other persons to exercise or perform on behalf of the Organisation any power, authority, duty or function, the Organisation, by resolution reserves for itself.

11. Executive of the Organisation

The Executive of the Organisation shall be the President, Senior Vice President and Junior Vice President, being elected members representing member Councils.

- i. The President, Senior Vice President and Junior President shall be elected from among the delegates each year at the Annual General Meeting. An election shall also be held for any casual vacancy occurring among the Executive and any Executive member so elected shall hold office until the next annual election of the Executive.
- ii. The Organisation shall appoint a Secretary and a Treasurer.
- iii. The President, Senior Vice President and Junior Vice President of the Organisation in office prior to the Annual General Meeting of the Organisation to be held in November 2003 remain in office until the first Ordinary Meeting of the Organisation to be held after the ordinary election of councils to be held on Saturday 27 March 2004.

12. Powers of the President

- i. The President shall preside at all meetings of the organisation at which he/she is present.
- ii. The President, unless otherwise directed by resolution of the Organisation shall:-

SSROC Transition Options

- (a) Carry on the regular services and operations of the Organisation within the sums voted by the Organisation for expenditure thereon and in accordance with the constitution and the resolutions of the Organisation.
- (b) Control and direct staff of the Organisation.
- (c) Suspend any staff of the Organisation and, if necessary, arrange for the carrying on of the duties of that staff member until the next meeting of the Organisation.
- (d) Authorise the payment of the salaries and wages of the staff of the Organisation within the sums voted by the Organisation for expenditure thereon.
- (e) At any meeting of the Organisation remove or cause the removal of any member of the Organisation, or any elected member of any member Council who, after warning, is guilty of disorder, and at the same or any subsequent meeting, exclude or remove such member unless he/she apologises without reservation.
- (f) Give effect to any decision of the Organisation.
- (g) Be authorised to make press statements on behalf of the Organisation and authorise any member of the Organisation to make press statements and undertake the day to day administrative requirements.
- (h) Call Special Meetings of the Organisation subject to 48 hours notice being given to delegates, except in cases of emergency.

13. Staff

The Organisation shall have the power to appoint any such staff as the Organisation may require from time to time.

14. Advisory Sub-Committees

- i. The Organisation may, from time to time, appoint any number of Committees in connection with any work, activity or object of the Organisation.

SSROC Transition Options

- ii. The Organisation shall have power to co-opt any person to assist and/or comprise a Sub-Committee

15. Office

The Office of the Organisation shall be at such place as the Organisation may, from time to time, appoint.

16. Financial Year

The Organisation's financial year shall commence on 1st July and terminate on 30th June of the following year.

17. Finance

- i. The Organisation shall determine, prior to 31st May each year, an Annual Budget which will include:-
 - the amount of proposed expenditure by the Organisation;
 - the amount in hand available for such expenditure; and
 - any additional amount required to be raised to meet such expenditure.
- ii. In the event of any expenditure not covered by the Annual Budget, the Organisation shall prepare a statement showing:-
 - the amount and nature of the extraordinary expenditure;
 - the amount in hand available to meet the expenditure after allowing for estimated ordinary expenditure for the balance of the year; and
 - any additional amount required to be raised to meet extraordinary expenditure.
- iii. The financial contribution by member Councils towards costs of the organisation shall be equal.
- iv. The Organisation shall pay monies received by it to a bank account held in the name of the Organisation and shall use such monies for the purpose of, and subject to, the terms of this Constitution.
- v. All accounts shall be operated upon in such manner and by such persons as the organisation shall from time to time determine.

SSROC Transition Options

- vi. The accounts of the organisation shall be kept according to the same principles as the accounts of a member Council and in such books and form as are approved by the auditors of the organisation.
- vii. (a) The Organisation shall appoint an auditor who shall annually audit the accounts of the Organisation.

(b) The audited accounts shall be presented to a meeting of the Organisation prior to 30th November each year.
- viii. The assets and income of the Association shall be applied solely in furtherance of its above mentioned objectives and no portion shall be distributed directly or indirectly to the members of the Association except as bona fide compensation for services rendered or expenses incurred on behalf of the Association.

18. Annual Report

The Organisation shall submit an Annual Report to each of the member Councils with the notice of the Annual General Meeting.

19. Co-operation

For the purpose of performing any powers, duties or functions, the Organisation may make use of the services of an employee of a member Council if the prior approval of the Council is obtained.

20. Associate Members

The Organisation may permit a Council or entity not currently a member of the Organisation to become an associate member. Associates may only engage in procurement, commercial or other activities as determined by the Organisation.

Applicants for associate membership shall sign and forward to the Organisation an application to the effect that [Name of Applicant] desires to become an associate member of the Southern Sydney Regional Organisation of Councils Limited and agrees to be bound by the Constitution of the Organisation and pay the associate membership contribution determined by the Organisation.

The Secretary shall place applications for associate membership before the first meeting of the Organisation after the application for associate membership has been received.

SSROC Transition Options

The Organisation's decision shall be final and conclusive as to whether any entity shall be admitted as a member or associate.

21. Termination of Membership

A Council may withdraw from membership of the Organisation on giving six months' notice of termination to the Organisation. When such termination takes effect, no contribution shall be refunded, no funds will be distributed and the Constitution remains in force between the remaining members of the Organisation.

22. Amendments

This Constitution may be altered from time to time by a resolution passed at a meeting of the Organisation by votes equivalent to three fourths the number of members entitled to vote.

23. Amalgamation of the Organisation

Where it furthers the objects of the Association to amalgamate with any one or more other organisations having similar objects, the other organisation(s) must have rules prohibiting the distribution of its (their) assets and income to members; and must be exempt from income tax.

24. Termination of the Organisation

Upon the termination of this Organisation the debts and liabilities of the Organisation shall be discharged out of the assets of the Organisation. The balance of the assets shall be shared equally by the member Councils remaining immediately before the termination of the Organisation.

In the event of there being no member Councils remaining, the amount which remains after such dissolution and the satisfaction of all debts and liabilities, shall be transferred to any organisation which has similar objects and which is exempt from income tax.

25. Members' Liabilities

The liability of a member of the Organisation to contribute towards the payment of the debts and liabilities of the Organisation or the costs, charges

SSROC Transition Options

and expenses of the termination of the Organisation is limited to the amount, if any, unpaid by the member in respect of membership of the Organisation.

26. Common Seal

The common seal of the organisation is kept in the custody of the Secretary/Treasurer. The common seal must only be affixed to an instrument with the authority of the Executive.

27. Custody of Books

The Secretary/Treasurer must ensure the safe keeping of all records, books and other documents relating to the organisation.

28. Inspection of Books

The records, books and other documents of the organisation must be open to inspection, free of charge, by a member of the association at any reasonable hour.

29. Payroll Tax

The Organisation (being a wholly-owned subsidiary of 2 or more councils) may, at the discretion of the member Councils, pay the member Councils an amount approximately equivalent to the amount of tax that would be payable by the Organisation under the Payroll Tax Act 2007 (NSW) but for the exemption set out in section 59 of that Act.

WSROC – The Future - Proposed Structure for a Western Sydney Organisation of Councils

A metropolitan Organisation of Councils proposed for Western Sydney comprises two entities.

Advocacy & Regional Leadership

Western Sydney Councils Inc.

This is a new organisation.

Board of Western Sydney Councils
[Mayors + a single alternative Councillor]

4 meetings per year

+ Reg Co-ord DPC
+ GSC Commissioners
+ WS Parl Sec
+ GMs

Western Sydney Airport.

Urban Heat.

Western Sydney Rail Needs.

Western Sydney Health – obesity and diabetes

Western Sydney BusInvest.

Road Maintenance Funding and Tolls.

Western Sydney Iconic Events.

Great Western Walk

- Regional leadership and advocacy.
- Regional strategic planning and priority setting.
- Intergovernmental collaboration at the highest level.
- Setting goals and objectives for WSROC Ltd and its programs and business units.
- Oversight of WSROC Ltd.

Strategic Intent
Priority setting
Oversight

Governance and administration

Professional Groups and Task Groups.

Today

Tomorrow

Commercial Enterprise

WSROC Ltd.

This is the existing WSROC company.

Board of WSROC Ltd
[GM of Council]

6 meetings per year

Joint Procurement

Program/Project Management

- Light Years Ahead V2
- Energy Efficiency Program
- Animal Holding Facilities

Federal / State Grants

- Regional Waste Strategy

The business units of WSROC Ltd. These are just examples of the types of potential opportunities. Some of these could involve public/private partnerships.

Legal Services

Consultancy

Tourism

Records Management

Shared Services

Investment/Trade Desk

Training Services

Recruitment Services

Program/Project Management Services

Economic Development

Why two entities?

The purpose of the organisations and the nature of the work is fundamentally different.

Advocating vs running businesses.

Advocacy & Regional Leadership

Western Sydney Councils Inc.

- This is a new organisation.
- Incorporated Association.
- NSW Associations Incorporation Act 2009.
- Cannot conduct commercial enterprise.

Board of Western Sydney Councils
[Mayors + a single alternative Councillor]

+ Reg Co-ord DPC
+ GSC Commissioners
+ WS Parl Sec
+ GMs

- 4 meetings per year
- one vote per Council

1. Issues before the Board are more of a strategic, advocacy and regional leadership nature, not operational.
2. The Board members are not legally bound to act in the interests of the Incorporated Association.
3. Board meetings far more attractive for Ministerial participation.
4. The participation of Reg Co-Ord DPC, GSC Commissioners and WS Parl Sec is relevant.
5. The frequency of meetings required are less than those of a Board overseeing commercial operations.
6. Due to nature of representation meetings need to be fixed well in advance and difficult to re-schedule.
7. The exposure of Mayors/Councillors to the risk of conducting commercial activities is removed.

Outcomes

Separation and alignment of the work streams for effective decision making in focussed forums.

Simplification of the governance to manage two fundamentally different work streams.

Removing exposure of Councillors to legal and commercial risks.

Attracting Ministers to Board meetings.

Attracting key influencers from State Government agencies to Board meetings.

Limiting the time commitment from Mayors.

Making the most of the GMs capabilities and time.

Enhanced advocacy standing within the Federal and State Governments "Cabinet of Western Syd Mayors".

Commercial Enterprise

WSROC Ltd.

- This is the existing WSROC company.
- Company Limited by Guarantee.
- Commonwealth Corporations Act.

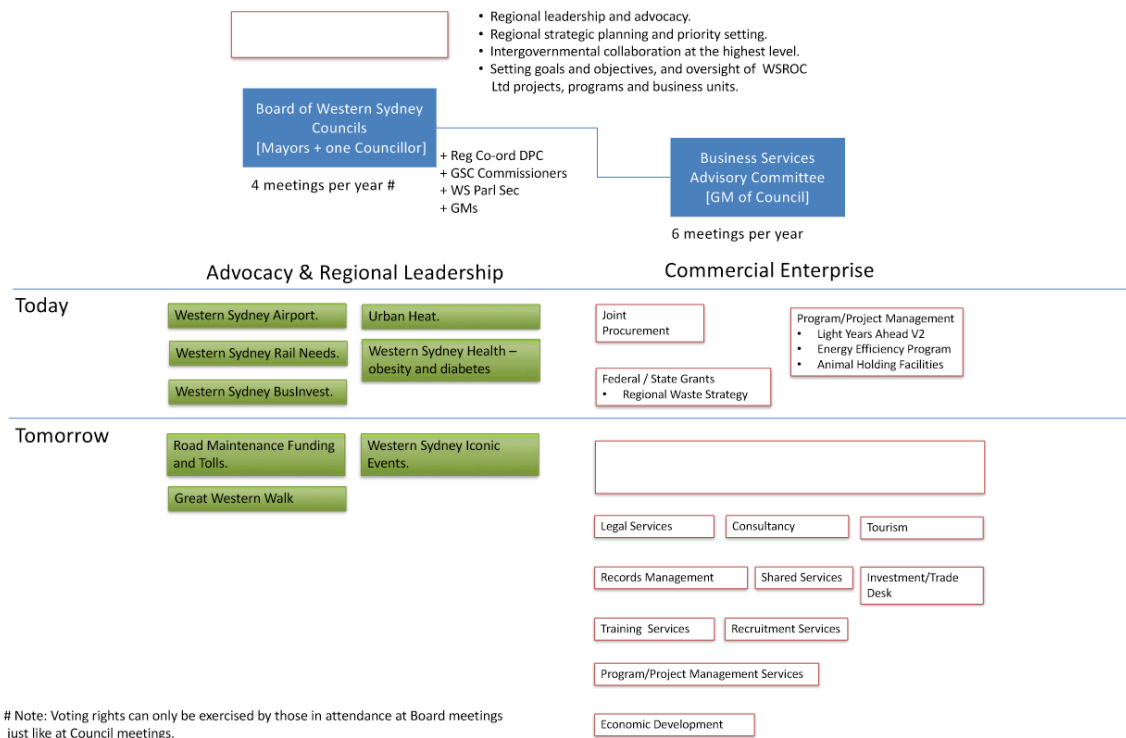
Board of WSROC Ltd
[GM of Council]

6 meetings per year

1. The Executive has previously approved an increased emphasis on WSROC becoming self-funding through commercial enterprise with the additional aim of generating revenue to support enhanced advocacy.
2. The Directors are legally obliged to act in the interests of the Company, not member Councils.
3. The Board is made up exclusively of skilled professionals.
4. The frequency of meetings can be adjusted to suit the intensity of commercial operations, some flexibility.
5. Participation of "Advocacy" stakeholder representatives from State Gov is inappropriate.
6. Commercial risk is compartmentalised in WSROC Ltd.

WSROC – The Future - Proposed Structure for a
Western Sydney Organisation of Councils

ANNEX A to Draft Board Resolution
Structure of WSROC dated 4 Apr 17.



REPORT
OC/5.3/18.04

Subject: Public Art Committee

TRIM No: A18/0141

Author: Matthew Fallon, Manager, Cultural Programs

Director: Linda Bathur, Acting Director, Waverley Life

RECOMMENDATION:

That Council appoints the following members to the Waverley Public Art Committee for a term of two years:

- Alexandra Bowen
- Claire Edwards
- Isabelle Toland
- Joni Taylor
- Sam Marshall
- Sylvia Hrovatin
- Willa Stanton
- Ian Shadwell (on reserve)
- Liane Rossler (on reserve)

1. Executive Summary

Waverley Council has made a public call for suitably qualified members of the community to join the Waverley Public Art Committee. Supported by Council Officers, the Chair of the Waverley Public Art Committee has conducted a selection process to determine these recommendations for appointment.

2. Introduction/Background

Waverley Council established a Public Art Committee in 1992 and in November 2012 Council adopted an amended 'terms of reference' for the committee.

Since then there have been new committees for the period of March 2013 - February 2015 and March 2015 - February 2017. Due to impending amalgamations the tenure of the appointed March 2015 – February 2017 committee was extended for the period of one year.

Following the 2017 council elections and the appointment of a new chair for the Public Art Committee a review of the terms of reference for the committee was conducted by the newly appointed Chair and Deputy Chair of the Waverley Public Art Committee and the former Chair of the Waverley Public Art Committee together with council staff. The updated terms of reference for the Waverley Public Art Committee were adopted by Waverley Council in December 2017.

3. Relevant Council Resolutions

Council or Committee Meeting and Date	Minute No.	Decision
Council Meeting 19 February 2013	1302.12.7	That: 1. The following applicants be appointed to the Waverley Public Art Committee as community representatives for the period of 2 years: Andrew Schultz Cara Joy Cumming (NR) Gillian Redman-Lloyd Kelly Robson (NR) Phillipa Sprott Simon Chan Genevieve O'Callaghan Caroline Jones
Council Meeting 20 November 2012	1211.12.14	That Council 1. Thank community representatives on the Waverley Public Art Committee for their important contribution to the Waverley community during their term on the Committee 2. Adopt the revised terms of reference for the Waverley Public Art Committee (provided as an attachment to this report)
Council Meeting 17 March 2015	7.7/15.03	The Council appoints the following members to the Waverley Public Art Committee for a term of two years <ul style="list-style-type: none"> - Analyse McLeod - Jamil Yamani - Louisa Dawson - Faith Wieland - Sharon Campbell - Laurel Fox - David Langley - Jasmin Stephens - Anthony O Connor (Reserve) - Anna Waldman (reserve)
Council Meeting 12/12/2017	111399	That Council: 1. Adopts the Terms of Reference for the Waverley Public Art Committee attached to this report. 2. Calls for expressions of interest for new committee members to be appointed for the period March 2018 to February 2020.

4. Discussion

From the second week in January to late February applications were sought for new members of the Public Art Committee for the term of April 2018 - March 2020. The expression of interest (EOI) was advertised in community newsletters, the Waverley Council Arts and Culture e news, Waverley Council's web site Facebook & Twitter accounts, Museums and Galleries NSW alert e-news bulletin, Arts Hub website,

Creative Foyer website, and the National Association for the Visual Arts website. An extensive social media campaign was run across Facebook and Instagram platforms.

13 new submissions were received by members of the community.

These submissions were reviewed and considered by the Chair of the Public Art Committee, Cr Paula Masellos, along with the two appointed Councillor members of the Committee, Cr Elaine Keenan and Cr Angela Burrill alongside staff including Executive Manager, Enriching Waverley, the Manager, Cultural Programs and the Curator and Visual Arts Coordinator. The recommended appointments have been made with consideration to the skills and expertise required of the committee as outlined in Terms of Reference.

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: C6 Arts and cultural activities foster an involved community and a creative environment.
Strategy: C6b Encourage the arts in public places and public art in private developments.
Deliverable: Art in the public space

6. Financial impact statement/Timeframe/Consultation

The operation of the Waverley Public Art Committee requires Councillor, volunteer and staff time but otherwise there is no direct financial impact on the Waverley Council budget.

If Council approves the community membership for the Public Art Committee members at this meeting the first meeting for confirmed committee members is scheduled for Monday 30 April 2018.

The members of the committee will be engaged for a two year term.

7. Conclusion

Council is requested to appoint a new term of membership of the Waverley Public Art Committee 2018-2019.

8. Attachments

1. Public Art Committee - Terms of Reference



**Waverley Council
Waverley Public Art Committee
Terms of Reference
Updated version: November 2017**

The Waverley Public Art Committee has been established under

1 AIM OF THE WAVERLEY PUBLIC ART COMMITTEE

The Waverley Public Art Committee aims to:

- Foster the ongoing development of quality, diverse and creative public art and visual art so as to enhance public access and experience of the arts and;
- Select and develop public art works that serve as important markers reflective of our heritage and cultural identity.
- Involve the community through informing and promoting public art and visual arts programs

2 OBJECTIVES OF THE WAVERLEY PUBLIC ART COMMITTEE

- To encourage community participation and consultation in the public art and visual art works.
- To develop public art and visual art that will reflect the local identity, diversity, values of Waverley and that will promote and preserve sites of significant cultural and natural heritage.
- To support public art and visual art in Waverley and encourage creative and innovative design in the built environment that enhances and contributes to the provision of quality facilities and amenities.
- To strengthen and enhance the environment for arts and creative enterprises in Waverley.
- To develop and review relevant policies and strategies, and integrate art policy content into relevant Council processes, policies and documents
- To ensure that public art and visual art processes and works are managed and maintained in a planned and professional manner
- To assess applications or proposals related to public art and visual art program and make recommendations to Council.
- To source funding for public art works including sponsorships and philanthropic opportunities for Council consideration.
- To develop a framework that enables and encourages the private and commercial sector to contribute to development and investment in public art and visual art in Waverley.



- To provide assessment and advice for possible inclusions of public art to the Public Works program
- Explore possibilities and advocate for the inclusion of public art and visual art a
- Promote and facilitate Public Art and Visual Art programs to the community and provide interpretation information in public projects and in future Council budgets
- To provide advice for public art or visual art elements to be incorporated into private sector development projects.
- Provide expert advices making recommendations in terms of gifting and acquisitions, as well as deaccessioning works held within the Waverley Council Public Art Collection, in reference to the due diligence processes of Waverley Council's Acquisition and Deaccessioning Guidelines
- Raise the profile of Hunter Park with consideration to growing the profile of the park as a dedicated sculpture garden for the Waverley Community

3 WAVERLEY PUBLIC ART COMMITTEE STRUCTURE

Chairperson: The Mayor or the Mayor's delegate

Committee Members: Up to three (3) Waverley Councillors,
Up to eight (8) Waverley residents
Up to four (4) reserves with relevant expertise and interest in public art or visual arts

Administrative support: Waverley staff member

Relevant staff will attend meetings to provide advice, including staff from Cultural Programs, Outdoor Events, Landscape Architecture, Development and Strategic Planning, Community Safety, and Civic Pride.*

Any Councillor or Director is welcome to attend meetings.

4 MEMBERSHIP OF WAVERLEY PUBLIC ART COMMITTEE

Council will appoint community and expert members to the Waverley Public Art Committee so that the Committee includes a range of people with a mix of age groups, ethnicities, expertise and skills:

- Background, experience or expertise in the visual arts, public art and/or curatorial, architecture, design, landscaping or other arts related discipline.
- Interest in and passion for the arts, public art and visual art in Waverley
- Being a local resident of Waverley Council or with close connections to the Waverley area
- Experience in sourcing sponsorship, philanthropy, or other partnership opportunities
- Experience in working with community groups



- Commitment to EEO, OH&S, risk management, environmental protection and ethical principles.

The term for community and expert members will be a two year, non-renewable term.

5 PRINCIPAL RESPONSIBILITIES OF WAVERLEY PUBLIC ART COMMITTEE MEMBERS

- To attend Committee meetings as required.
- To contribute to achieving the objectives of the Waverley Public Art Committee.
- To undertake agreed tasks as determined at Waverley Public Art Committee meetings.
- To assist the Committee to identify suitable sources of funding and investment strategies for public art development
- Any other duties that may reasonably be determined and agreed by Committee members.

6 MEETINGS OF THE COMMITTEE

- Meetings of the Waverley Public Art Committee will be held at least once every three months or more frequently as required, outside working hours.
- A quorum for a meeting of the Committee will be a majority of Committee members of whom one must be a Councillor.
- Decisions will be made by majority vote.
- Notice of Committee meetings will be provided by email by the Council convenor at least two weeks before the Committee meeting specifying the time and place.
- At the discretion of the Chair, members of the public or subject experts may be invited to speak to or advise the WPAC on issues being considered by the Committee.

7 COMMITTEE AGENDA AND MINUTES

- Minutes and agenda of all Committee meetings are public documents.
- Copies of agenda and associated papers (such as correspondence and reports) will be available for the public at each meeting and upon request.
- Minutes will be made available to the appropriate Council Committee for their information.

8 COUNCIL SUPPORT FOR THE COMMITTEE

- Council is responsible for providing administrative support for the meetings.
- Council's main contact for the Waverley Public Art Committee will be the Executive Manager, Enriching Waverley. The Executive Manager will initiate communication on behalf of Council in terms of potential projects, maintain a record of advice, and prepare



an update for each meeting.*

9 DECLARATIONS OF PECUNIARY INTERESTS AND PARTICIPATION IN MEETINGS

- A Committee member who has a pecuniary interest in any matter with which the Committee is concerned and who is present at a meeting of the Committee at which the matter is being considered must disclose the interest to the meeting as soon as practicable.
- The member must not be present at, or in sight of, the meeting:
 - at any time during which a matter in which the member has a pecuniary interest is being considered or discussed by the Committee, or
 - at any time during which the Committee is voting on any question in relation to the matter.
- A person does not breach the above clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.
- For the duration of their terms members of the Waverley Council Public Art Committee and their immediate families are ineligible from applying for programs run by Waverley Council including but not limited to, Waverley Artist Studios, Bondi Pavilion Gallery program, Waverley Library gallery program, Waverley Art Prize, Waverley Youth Art Prize, Bondi Pavilion Theatre Program, Bondi Feast, Bondi Wave, Public Art Tenders (permanent or temporary), The Bondi Beach Sea Wall, and community Small Grants program or any other program produced by Waverley Council which would benefit the member either directly financially or through critical recognition.

10 DECLARATIONS OF NON-PECUNIARY CONFLICTS OF INTERESTS AND PARTICIPATION IN MEETINGS

- A member of the Committee who has a non-pecuniary conflict of interest in any matter with which the Committee is concerned and who is present at a meeting of the Committee at which the matter is being considered will disclose the interest to the meeting as soon as practicable.
- If a member of the Committee has declared a non-pecuniary conflict of interest there is a range of options for managing the conflict. The option chosen will depend on an assessment of the circumstances of the matter, the nature of the interest and the significance of the issue being dealt with.
- A Councillor or a member of a Council Committee will deal with a non-pecuniary conflict of interest in at least one of these ways:
 - It may be appropriate that no action is taken where the potential for conflict is minimal. However, the Councillor or Committee member should consider providing an explanation of why it is considered that a conflict does not exist.
 - Have no involvement by leaving the room in which the meeting is taking place and not taking part in any debate or vote on the issue.



11 MEDIA PROTOCOL

- Members of the Committee are not to speak to the media in their capacity as Committee members.
- The Mayor, the Chairperson of the Committee and Council's Media Officer are the only people permitted to speak to the media on behalf of the Committee.

SIGNED: _____

DATED: _____

WITNESS SIGNATURE: _____

WITNESS NAME _____

DATED: _____

Glossary of terms:

Public Art - Unique, crafted or sculptural works such as sculpture, mosaics, murals etc, that are commissioned, invited and selected from professional artists for sites in the public domain. Artwork(s) may be the creative product of one artist or the result of collaboration between artists and /or other design professionals such as architects, industrial and graphic designers and craftspeople.

Visual Art – Art forms that are primarily visual in nature, such as ceramics, drawing, painting, sculpture, printmaking, design, crafts, photography and video art. Visual art can include permanent or temporary works.

* Updated to reflect changes to the Waverley Council structure in 2014

REPORT
OC/5.4/18.04

Subject: Petition - Resident Parking Scheme in Alfred Street, Bronte

TRIM No: A03/2581

Author: Natalie Kirkup, Governance and Internal Ombudsman Officer

Director: Peter Monks, Acting General Manager

RECOMMENDATION:

That the petition requesting a resident parking scheme be installed in Alfred Street, Bronte be forwarded to the Executive Manager, Creating Waverley for appropriate action.

1. Executive Summary

Council has received a petition containing 22 signatures from residents of Alfred Street, Bronte requesting that a resident parking scheme be installed in Alfred Street.

It is recommended that the petition be forwarded to the Executive Manager, Creating Waverley, for appropriate action.

2. Introduction/Background

Council accepts petitions from persons who have an interest in the Waverley Local Government Area as residents, landowners, business people or in some other capacity. Petitions must concern matters that Council is authorised to determine.

3. Relevant Council Resolutions

There are no previous relevant Council resolutions on this matter.

4. Discussion

The petition requests Council to install a resident parking scheme in Alfred Street, Bronte with a 2 hour restriction for non-permit holders.

The Chief Petitioner advises in the covering letter that 22 of 39 residents have signed the petition.

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: G2 Our community is actively engaged in well-informed decision processes.

Strategy: G2b Provide opportunities in a variety of forums for all stakeholders to contribute to community decision making.

Deliverable: A website that supports community comment and engagement and includes a 'Have a Say' portal.

6. Financial impact statement/Timeframe/Consultation

There is no financial impact in Council receiving the petition.

7. Conclusion

It is recommended that Council refers the petition to the Executive Manager, Creating Waverley, for appropriate action.

8. Attachments

Nil.

REPORT
OC/5.5/18.04

Subject: Tender Evaluation - Gibson Street Reserve Playground Upgrade

TRIM No: A17/0119

Author: Jack Farag, Project Officer

Director: Emily Scott, Director, Waverley Renewal

RECOMMENDATION:

1. Treats the Tender Evaluation Matrix attached 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)(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. Under clause 178(1)(a) of the *Local Government (General) Regulation 2005*, accepts Undercover Landscapes Pty Ltd as the preferred tenderer for the supply of the Gibson Street Reserve Playground Upgrade for the sum of \$[TO BE INSERTED BY COUNCIL AT THE MEETING].
3. Authorises the General Manager, or delegated representative, to enter into contract on behalf of Council with Undercover Landscapes Pty Ltd.
4. Notifies unsuccessful tenderers of the decision in accordance with clause 179 of the *Local Government (General) Regulation 2005*.

1. Executive Summary

The purpose of this report is to seek Council's approval for the appointment of Undercover Landscapes Pty Ltd for Gibson Street Reserve Playground Upgrade as recommended by the Tender Evaluation Committee (TEC).

2. Introduction/Background

The proposed works were developed to improve the play experience within the park as identified in Waverley Council's Play Space Strategy (PSS). As proposed in the PSS, Gibson Street Reserve Playground was to remain as a 'Pocket Play Space' catering to the community in the immediate area, within a 5 – 10 minute walk, and to be tailored to a younger age range.

The following actions from the PSS were incorporated into the project scope:

- Developing this play space to include 'exploratory / nature' play spaces,
- Providing a range of play experiences including active, imaginative, creative, social, quiet and free play, and
- Creating play spaces that are memorable and include distinctive ways to experience play.

The nature of work specified in this Contract, is generally consistent with but is not limited to:

- a) Site establishment,
- b) Earthworks, regrading, demolition and drainage,
- c) Supply and Installation of recycled plastic edging,
- d) Supply and installation of miscellaneous fixtures and fittings,
- e) Supply and installation of sandstone feature elements,
- f) Co-ordinate the supply, delivery, certification and installation of all the nominated playground equipment including the following novated items: altus 2 rocker as well as the noughts & crosses and abacus, interactive panels,
- g) Co-ordinate the supply, delivery, certification and installation of the nominated thermoplastic alphabet game,
- h) Garden Bed Preparation (cultivation, soil & mulch),
- i) Supply and Installation of trees, low cover, tufting and herbs, and
- j) Supply and Installation of turf.

The advertising period was extended, after being considered by the Tender Evaluation Panel and approved by the Senior Project Manager to provide Tenderers with more time in submitting their Tenders, as there were a number of RFI Queries raised and addressed, accordingly.

3. Relevant Council Resolutions

Nil.

4. Discussion

Invitation to tender

A Tender Evaluation Panel was established to evaluate the tenders. The Panel consisted of:

- Andrew Chau – Senior Landscape Architect, Creating Waverley
- Genevieve Wilson – Senior Project Manager, Project Waverley
- Jack Farag – Project Officer, Project Waverley

An RFT Evaluation & Probity Plan was developed and approved by the Evaluation Panel on 13 March 2018.

Tenders for Gibson Street Reserve Playground Reserve Upgrade were called on 5 February 2018. Advertisements for the Tender were placed in the Wentworth Courier on 14th February 2018. Tenders closed at 5pm, 2 March 2018.

The Evaluation Panel used the RFT Evaluation & Probity Plan to determine which tenders offered the best value for money in the provision of Gibson Street Reserve Playground Reserve Upgrade to Council.

Tenderers Received

The following tenders were received:

- Stone Will
- Undercover Landscapes
- BNS Landscapes
- Glenn Simpson Landscapes

- Wilson Pedersen Landscapes

Late Tenders

Nil.

Non-conforming Tenders

Nil.

Alternative Tenders

Nil.

Five tenders met the mandatory requirements and proceeded to a detailed evaluation. The conforming tenders are listed below:

CONFORMING TENDERS EVALUATED
Stone Will Pty Ltd
Undercover Landscapes Pty Ltd
BNS Landscapes Pty Ltd
Glenn Simpson Landscapes Pty Ltd
Wilson Pedersen Landscapes Pty Ltd

Tender Evaluation

Conforming tenders were evaluated in accordance with Council's Purchasing Procedures and RFT Evaluation & Probity Plan, the *Tendering Guidelines for NSW Local Government 2009* issued by the Office of Local Government, and provisions of the *Local Government Act 1993* and *Local Government (General) Regulation 2005*.

The Evaluation Panel agreed on the following weightings to be used against the advertised selection criteria:

Advertised Evaluation Criteria	Weighting
Demonstrated Capability & Capacity	10%
Demonstrated Experience, Past Performance & Key Personnel	20%
Understanding of the Requirement & Proposed Project Methodology	20%
Proposed Project Program	10%
Price	40%
Total	100%

Tenders were given a score on each of the evaluation criteria, resulting in a total score out of 100. Tenders were ranked in accordance with their scores. Final scores and rankings are shown in the confidential Tender Evaluation Matrix attached to this report.

Post-tender clarifications were sought in writing from Tenderers for the following items:

- Sub-Total and Total Amounts calculated in the Schedule of Rates, and
- Completion of the revised Schedule of Rates excel spreadsheet.

Responses were submitted by all Tenderers.

Evaluation Panel's Recommendation

Following a rigorous evaluation of the tenders, the Evaluation Panel recommends that the services/product offered by Undercover Landscapes Pty Ltd provides the best value to Council based on the non-price and price criteria assessment. It should be noted that Undercover Landscapes Pty Ltd scored generally well in all of Stage 3 non-price criteria and were the number 1 ranked for this stage.

Further, Undercover Landscapes Pty Ltd has completed a number of construction projects of similar scope, including Mcleod Park for Hawkesbury City Council, Cowells Lane Reserve – Playground Upgrade for Parramatta City Council, Kenneth Slessor Park Embellishment for Willoughby City Council and various playgrounds for, of equal or greater value and are well-established for over 20 years. In addition, Undercover Landscapes Pty Ltd provide landscaping and maintenance services to the commercial sector including vegetation and landscaping of road projects, detailed public space and playground construction, streetscapes to new housing estates, installation of drainage and media to bio retention basins, Bioswales and Raingardens, reconstruction, rehabilitation and broad scale revegetation works in natural areas such as bushland and creek lines.

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

6. Financial impact statement/Timeframe/Consultation

Financial impact statement

The budget for Gibson Street Reserve Playground Reserve Upgrade Works is from Cost Code C0358 – Gibson and Brown Street Reserve.

The preferred tenderer's price is included in the confidential Tender Evaluation Matrix attached to this report.

The total budget allocation for the Gibson Street Reserve Playground Reserve Upgrade is currently \$175,452.

There are sufficient funds to cover the price tendered by the recommended tenderer.

Timeframe

The project is scheduled for commencement in May 2018 for a duration of 6 weeks.

Consultation

Extensive consultation was undertaken as stipulated in Council's adopted Play Space Strategy 2014 – 2029. The community was invited to participate in the process through surveys and on site to have their say on the consultation days. This process helped engage the community in proposed design outcomes, receive community feedback and reconfirm the actions outlined in the PSS. Community consultation for the project occurred from 5 December 2016 to 5 January 2017 with Council's Have Your Say Waverley website receiving 87 visits, with 22 of those visitors downloading the draft plan. The online survey received 13 submissions in total, inclusive of formal responses from the Have Your Say Day and surveys independently completed online. The community response was very positive about the refurbishment of the space and are generally accepting of the draft plan.

7. Conclusion

The TEC recommends Council enter into contract with Undercover Landscapes Pty Ltd.

8. Attachments

1. Tender Evaluation Matrix (confidential)

REPORT
OC/5.6/18.04

Subject: Tender Evaluation - Waverley Park Water Harvesting Scheme Upgrade (Re-issue)

TRIM No: A17/0525

Author: Corey Fox, Water Projects Coordinator

Director: George Bramis, Acting Director, Waverley Futures

RECOMMENDATION:

That Council:

1. Treats the Tender Evaluation Matrix attached 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)(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. Under clause 178(1)(a) of the *Local Government (General) Regulation 2005*, accepts SAS Water Solutions Pty Ltd as the preferred tenderer for the supply of Waverley Park Water Harvesting Scheme Upgrade for the sum of \$[TO BE INSERTED BY COUNCIL AT THE MEETING].
3. Authorises the General Manager, or delegated representative, to enter into contract on behalf of Council with SAS Water Solutions Pty Ltd.
4. Notifies unsuccessful tenderers of the decision in accordance with clause 179 of the *Local Government (General) Regulation 2005*.

1. Executive Summary

The purpose of this report is to seek Council's approval for the appointment of SAS Water Solutions Pty Ltd for the Waverley Park Water Harvesting Scheme Upgrade project as recommended by the Tender Evaluation Committee (TEC).

2. Introduction/Background

The Waverley Park Waverley Park Water Harvesting Scheme Upgrade project is specifically aligned with Council's Environmental Action Plan 3 (EAP3) sustainable water target:

- 50% reduction in Council's mains water consumption by 2020 based on 2005/06 levels.

The project will deliver potable water savings at Waverley Park through the augmentation of existing recycled water systems at the site.

A comprehensive 2015 feasibility study conducted by independent consultants, Storm Consulting, concluded that the proposed alternative water optimisation works for Waverley Park are feasible. The

upgraded systems will provide a combined total of 5.3 mega litres (ML) of recycled water (4.9 ML of groundwater seepage and 0.4 ML of rainwater) for use for irrigation and toilet flushing at Waverley Park and the Margaret Whitlam Recreation Centre.

Waverley Park Water Harvesting Scheme Upgrade Project includes:

- Construction of a new 200 kilolitre storage tank in Waverley Park.
- Construction of a new pump pit and pipe network.
- Integration of new pumps and controls with existing systems and controls.
- Modification of the existing rainwater tank located in Margaret Whitlam Recreation Centre and the installation of new pumps and controls.

3. Relevant Council Resolutions

Council or Committee Meeting and Date	Minute No.	Decision
Council 12 April 2017	CM/7.18/17.12	<p>That Council:</p> <ol style="list-style-type: none"> 1. Declines to accept any of the tenders for the Waverley Park Water Harvesting Scheme Upgrade, in accordance with clause 178 (1)(b) of the Local Government (General) Regulation 2005. 2. Invites fresh tenders for Waverley Park Water Harvesting Scheme Upgrade, in accordance with clauses 178(3)(b) and 167 of the Local Government (General) Regulation 2005. 3. Notifies unsuccessful tenderers of the decision in accordance with clause 179 of the Local Government (General) Regulation 2005.

4. Discussion

Invitation to tender

A Tender Evaluation Panel was established to evaluate the tenders. The Panel consisted of:

- Corey Fox Coordinator Sustainable Water, Sustainable Waverley
- Nikolaos Zervos Asset Manager, Creating Waverley
- David Knights Environmental Engineer, Knights and McAuley

An RFT Evaluation & Probity Plan was developed and approved by the Evaluation Panel on 14 March 2018.

Tenders for the Waverley Park Water Harvesting Scheme Upgrade were called on 20 February 2018. Advertisements for the Tender were placed in the Local Government Tenders section of the Sydney Morning Herald and Wentworth Courier on 20 and 21 February 2018.

Tenders closed on 13 March 2018 at 10am. The electronic tender box was unlocked on 15 March 2018.

The Evaluation Panel used the RFT Evaluation & Probity Plan to determine which tenders offered the best value for money in the provision of the Waverley Park Water Harvesting Scheme Upgrade to Council.

Tenders Received

The following tenders were received:

- Neverstop Water Harvesting P/L
- SAS Water Solutions Pty Ltd
- B R Durham & Sons Pty Ltd

Late Tenders

Nil.

Non-conforming Tenders

The following non-conforming tender was received:

The tender submitted by B R Durham & Sons Pty Ltd was deemed to be non-conforming due to the fact it did not meet any mandatory requirements stipulated in the RFT and the required tender documentation was not submitted. This tender was not considered further.

Alternative Tenders

Nil.

Two tenders met the mandatory requirements and proceeded to a detailed evaluation. The conforming tenders are listed below:

CONFORMING TENDERS EVALUATED
Neverstop Water Harvesting P/L
SAS Water Solutions Pty Ltd

Tender Evaluation

Conforming tenders were evaluated in accordance with Council's Purchasing Procedures and RFT Evaluation & Probity Plan, the *Tendering Guidelines for NSW Local Government 2009* issued by the Office of Local Government, and the provisions of the *Local Government Act 1993* and *Local Government (General) Regulation 2005*.

The Evaluation Panel agreed on the following weightings to be used against the advertised selection criteria:

Advertised Evaluation Criteria	Weighting
Demonstrated experience in the construction and modification of water recycling schemes	25%
Technical expertise in implementing C-more HMI control and monitoring systems	20%
Capacity to meet all health, safety, quality, environmental management requirements and general contract requirements	5%
Proposed project program and methodology	20%
Lump sum price and pricing of components	30%
Total	100%

Tenders were given a score on each of the evaluation criteria, resulting in a total score out of 100. Tenders were ranked in accordance with their scores. Final scores and rankings are shown in the confidential Tender Evaluation Matrix attached to this report.

Evaluation Panel's Recommendation

Following a rigorous evaluation of the tenders the Evaluation Panel recommends that the services offered by SAS Water Solutions Pty Ltd provides the best value to Council. The lump sum price submitted by the two confirming tenders was very similar, hence careful evaluation of non-price criteria assessment was of high importance. Overall, SAS Water Solutions Pty Ltd demonstrated a superior level of experience and understanding of project requirements in relation to control systems. They also identified opportunities to add value to the project.

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: E4 Water is used carefully and sparingly in Waverley's buildings, gardens, businesses and Council operations.

Strategy: E4c Investigate and implement recycled water technologies.

Deliverable: Water harvesting and reuse opportunities at sites with reliable harvesting potential (i.e., base flow or groundwater) and high demand for reuse water identified and projects designed and undertaken to harvest and reuse water.

6. Financial impact statement/Timeframe/Consultation

Financial impact statement

The budget for Waverley Park Water Harvesting Scheme Upgrade is from C0228 – Waverley Park Water Harvesting. The preferred tenderer's price is included in the confidential Tender Evaluation Matrix attached to this report.

The total anticipated funding required for Waverley Park Water Harvesting Scheme Upgrade is \$429,000.00. The total budget allocation for the Waverley Park Water Harvesting Scheme Upgrade is currently \$429,000.00.

There are sufficient funds to cover the price tendered by the recommended tenderer.

Timeframe

The project works will commence in June 2018 for a duration of 3 months.

Consultation

Consultation has taken place with internal stakeholders.

Once the Tender is approved, Council will notify regular hirers and users of Waverley Oval. Works will not impact on the use of Waverley Oval.

7. Conclusion

The Tender Evaluation Panel recommends Council enter into contract with SAS Water Solutions Pty Ltd for Waverley Park Water Harvesting Scheme Upgrade.

8. Attachments

1. Waverley Park Water Harvest Tender Evaluation Matrix (confidential)