



**WAVERLEY**  
COUNCIL

**MINUTES OF THE STRATEGIC PLANNING AND DEVELOPMENT COMMITTEE MEETING  
HELD AT WAVERLEY COUNCIL CHAMBERS, CNR PAUL STREET AND BONDI ROAD, BONDI JUNCTION ON  
TUESDAY, 2 JULY 2019**

**Present:**

Councillor Paula Masselos (Chair)	Lawson Ward
Councillor John Wakefield (Mayor)	Bondi Ward
Councillor Sally Betts	Hunter Ward
Councillor Angela Burrill	Lawson Ward
Councillor George Copeland	Waverley Ward
Councillor Leon Goltsman	Bondi Ward
Councillor Tony Kay	Waverley Ward
Councillor Elaine Keenan	Lawson Ward
Councillor Steven Lewis	Hunter Ward
Councillor Will Nemes	Hunter Ward
Councillor Marjorie O'Neill	Waverley Ward

**Staff in attendance:**

Ross McLeod	General Manager
John Clark	Director, Customer Service and Organisation Improvement
Mitchell Reid	Acting Director, Planning, Environment and Regulatory
Emily Scott	Director, Community, Assets and Operations
Darren Smith	Chief Financial Officer
Jane Worthy	Internal Ombudsman

*At the commencement of proceedings at 7.30PM, those present were as listed above.*

**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 Wy Kanak.

**2. Declarations of Pecuniary and Non-Pecuniary Interests**

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

**3. Addresses by Members of the Public**

- 3.1 J Bryden (on behalf of the applicant, Hollywood Investments Pty Ltd) – PD/5.1/19.07 – Planning Proposal – 96-122 Ebley Street, Bondi Junction – Gateway Determination Alteration.
- 3.2 L Williams (resident and member of Save Marks Park) – PD/6.1/19.07 – Marks Park Equal Access Path.
- 3.3 J Cosgrave (President of Friends of Wairoa School for Special Needs Students) – PD/6.1/19.07 – Marks Park Equal Access Path.
- 3.4 A Long (along with J Reid, original advocates for access to the coastal walk and members of Save Marks Park) – PD/6.1/19.07 – Marks Park Equal Access Path.
- 3.5 J P Pinto (architect and member of the Artist Committee to Save Sculpture by the Sea) – PD/6.1/19.07 – Marks Park Equal Access Path.
- 3.6 D Handley (Founding Director, Sculpture by the Sea) – PD/6.1/19.07 – Marks Park Equal Access Path.

#### 4. Confirmation of Minutes

**PD/4.1/19.07 Confirmation of Minutes - Strategic Planning and Development Committee Meeting - 4 June 2019 (SF19/327)**

**MOTION / UNANIMOUS DECISION**

Mover: Cr Masselos  
Seconder: Cr Keenan

That the minutes of the Strategic Planning and Development Committee Meeting held on 4 June 2019 be received and noted, and that such minutes be confirmed as a true record of the proceedings of that meeting.

#### 5. Reports

**PD/5.1/19.07 Planning Proposal - 96-122 Ebley Street, Bondi Junction - Gateway Determination Alteration (PP-1/2016)**

**MOTION / UNANIMOUS DECISION**

Mover: Cr Wakefield  
Seconder: Cr Lewis

That Council:

1. Supports the planning proposal lodged by CityPlan Services to amend the Waverley Local Environment Plan 2012 (WLEP) in respect of 96–122 Ebley Street, Bondi Junction, for the following reasons:
  - (a) The revised proposal has addressed concerns around commercial capacity and is now consistent with the Draft Waverley Local Strategic Planning Statement, Bondi Junction Commercial Centre Review, Eastern City District Plan, and Waverley Community Strategic Plan as it maintains the existing commercial floorspace capacity available on the site, and acts as a catalyst for redevelopment thereby realising this existing potential.
2. Forwards the Planning Proposal to the Department of Planning and Environment to seek a Revised Gateway Determination.
3. Places the planning proposal on public exhibition in accordance with any conditions of the Revised Gateway Determination should that be approved by the Department of Planning and Environment.
4. Officers report back to Council post-exhibition for recommendation on a final decision.

**Division**

**For the Motion:** Crs Betts, Burrill, Copeland, Goltsman, Kay, Keenan, Lewis, Masselos, Nemesh, O'Neill and Wakefield.

**Against the Motion:** Nil.

*J Bryden (on behalf of the applicant) addressed the meeting.*

**PD/5.2/19.07 Planning Appeals in the Land and Environment Court (A17/0514)****MOTION / UNANIMOUS DECISION**

Mover: Cr Wakefield

Seconder: Cr Lewis

That Council receives and notes this report on the status of the planning appeals currently in the Land and Environment Court.

**Division**

**For the Motion:** Crs Betts, Burrill, Copeland, Goltsman, Kay, Keenan, Lewis, Masselos, Nemesh, O'Neill and Wakefield.

**Against the Motion:** Nil.

**6. Urgent Business****PD/6.1/19.07 Marks Park Equal Access Path (A05/1638)**

*Council unanimously decided to deal with this matter as an item of urgent business.*

**MOTION**

Mover: Cr Kay

Seconder: Cr Betts

That Council suspends construction of the proposed access path in Marks Park, except that which connects the amenities building to the upgraded playground along the Marks Lane alignment, which is required to meet statutory requirements, until:

1. Consultation is conducted with the key stakeholders (including local residents, disability service providers, and Sculpture by the Sea) on matters including safety for disabled users, loss of green space, the consultation and the Council endorsement processes, and the impact of the access path on the Sculpture by the Sea event.
2. The outstanding access path design is updated to reflect agreements reached.
3. Council endorses any updated access path design.

THE MOVER OF THE MOTION THEN ACCEPTED THE FOLLOWING SIX ADDITIONAL CLAUSES INTO THE MOTION:

That Council:

1. Notes that the concept design currently shown on Council's website has never been formally approved by resolution of Council.
2. Notes extensive and thorough consultation with members of the community and stakeholders was undertaken through 2017.
3. Notes initial and subsequent risk assessments have been undertaken to ensure that the proposed pathway and other elements of the works in Marks Park are compliant with statutory and regulatory requirements under local, state and federal law.
4. Notes that Council determines there is a proposed pathway that forms less than five per cent of the grassed area of Marks Park, and approximately three per cent of the whole extent of Marks Park.

5. Notes that Sculpture by the Sea has been aware of this project since 2015 and has been consulted at various points from that year until today, including meetings on:
  - (a) 28 May 2019, in which Sculpture by the Sea proposed that the pathway be pushed to the full extent of the scope of works abutting the ridgeline to increase the extent of green in the park, and officers examined this potential.
  - (b) 13 June 2019, in which Sculpture by the Sea proposed diverting the pathway across the middle of Marks Park, and not connecting it to the lookout or stairs on the other side, and a plan (including geotechnical aspects) was submitted to Sculpture by the Sea of this alternative design.
6. Notes that on 2 April 2019, the tender to undertake works was unanimously supported by all councillors. Subsequently, a contract was issued to undertake the works.

**AMENDMENT (WITHDRAWN)**

Mover: Cr Lewis  
Seconder: Cr Wakefield

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

‘Further notes that Council does not, as a general practice, resolve to approve concept designs.’

AT THIS STAGE IN THE PROCEEDINGS, CR GOLTSMAN RAISED A POINT OF ORDER THAT IN TALKING TO THE AMENDMENT CR WAKEFIELD’S COMMENTS WERE IRRELEVANT.

THE CHAIR DID NOT UPHOLD THE POINT OF ORDER AND RULED THAT CR WAKEFIELD’S COMMENTS WERE RELEVANT. CR GOLTSMAN THEN MOVED A MOTION OF DISSENT ON THE CHAIR’S RULING.

THE MOTION OF DISSENT WAS PUT AND DECLARED LOST.

**Division**

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

**Against the Motion of Dissent:** Crs Copeland, Keenan, Lewis, Masselos, O’Neill and Wakefield.

THE MOVER OF THE AMENDMENT THEN WITHDREW THE AMENDMENT.

THE MOVER OF THE MOTION THEN ACCEPTED THE ADDITION OF A NEW CLAUSE 7 INTO THE MOTION SUCH THAT THE MOTION NOW READS AS FOLLOWS:

That Council:

1. Notes that the concept design currently shown on Council’s website has never been formally approved by resolution of Council.
2. Notes extensive and thorough consultation with members of the community and stakeholders was undertaken through 2017.
3. Notes initial and subsequent risk assessments have been undertaken to ensure that the proposed pathway and other elements of the works in Marks Park are compliant with statutory and regulatory requirements under local, state and federal law.
4. Notes that Council determines there is a proposed pathway that forms less than five per cent of the grassed area of Marks Park, and approximately three per cent of the whole extent of Marks Park.

5. Notes that Sculpture by the Sea has been aware of this project since 2015 and has been consulted at various points from that year until today, including meetings on:
  - (a) 28 May 2019, in which Sculpture by the Sea proposed that the pathway be pushed to the full extent of the scope of works abutting the ridgeline to increase the extent of green in the park, and officers examined this potential.
  - (b) 13 June 2019, in which Sculpture by the Sea proposed diverting the pathway across the middle of Marks Park, and not connecting it to the lookout or stairs on the other side, and a plan (including geotechnical aspects) was submitted to Sculpture by the Sea of this alternative design.
6. Notes that on 2 April 2019, the tender to undertake works was unanimously supported by all Councillors. Subsequently, a contract was issued to undertake the works.
7. Further notes that Council does not, as a general practice, resolve to approve all concept designs.
8. Suspends construction of the proposed access path in Marks Park, except that which connects the amenities building to the upgraded playground along the Marks Lane alignment, which is required to meet statutory requirements, until:
  - (a) Consultation is conducted with the key stakeholders (including local residents, disability service providers, and Sculpture by the Sea) on matters including safety for disabled users, loss of green space, the consultation and the Council endorsement processes, and the impact of the access path on the Sculpture by the Sea event.
  - (b) The outstanding access path design is updated to reflect agreements reached.
  - (c) Council endorses any updated access path design.

AT THIS STAGE IN THE PROCEEDINGS, CR LEWIS MOVED A PROCEDURAL MOTION THAT THE MOTION BE NOW PUT.

THE PROCEDURAL MOTION WAS PUT AND DECLARED CARRIED.

THE MOTION WAS THEN PUT AND DECLARED LOST.

#### **Division**

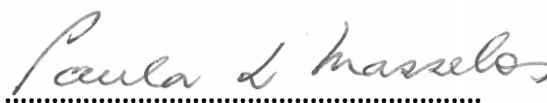
**For the Motion:** Crs Betts, Burrill, Goltsman, Kay and Nemesh.

**Against the Motion:** Crs Copeland, Keenan, Lewis, Masselos, O'Neill and Wakefield.

*L Williams, J Cosgrave, A Long, J P Pinto and D Handley addressed the meeting.*

#### **7. Meeting Closure**

**THE MEETING CLOSED AT 9.45PM.**



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**SIGNED AND CONFIRMED**

**CHAIR**

**6 AUGUST 2019**