



Burwood Inc.1874

Burwood . Burwood Heights . Croydon . Croydon Park . Enfield . Strathfield

EXTRAORDINARY MEETING

Notice is hereby given that an extraordinary meeting of the Council of Burwood will be held electronically on Monday 7 September 2020 at 4:00pm to consider the matters contained in the attached Agenda.

In the overriding interests of public health and safety during the current COVID-19 pandemic, Council will be conducting its meeting electronically as per provisions under the NSW Local Government Act. The customary face-to-face public participation opportunity has been replaced with the opportunity to speak via teleconference link. Written submissions on agenda items will also be accepted. The written submissions will be acknowledged at the meeting and referenced in the minutes.

Tommaso Briscese
GENERAL MANAGER

Our Mission

**Burwood Council will create a quality lifestyle for its citizens
by promoting harmony and excellence in the delivery of its services**

CONFLICT OF INTERESTS

What is a “Conflict of Interests” - A conflict of interests can be of two types:

Pecuniary - an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.

A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to a matter or if the interest is of a kind specified in Section 448 of the Local Government Act.

Non-pecuniary – are private or personal interests the Council official has that do not amount to a pecuniary interest as defined in the Local Government Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.

Who has a Pecuniary Interest? - A person has a pecuniary interest in a matter if the pecuniary interest is the interest of:

- The person, or
- The person’s spouse or de facto partner or a relative of the person, or a partner or employer of the person, or
- A company or other body of which the person, or a nominee, partner or employer of the person, is a member.

No Interest in the Matter - However, a person is not taken to have a pecuniary interest in a matter:

- If the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or
- Just because the person is a member of, or is employed by, a Council or statutory body or is employed by the Crown.
- Just because the person is a member of, or a delegate of the Council to, a company or other body that has a pecuniary interest in the matter so long as the person has no beneficial interest in any shares of the company or body.

N.B. “Relative”, in relation to a person means any of the following:

- a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descends or adopted child of the person or of the person’s spouse;
- b) the spouse or de facto partners of the person or of a person referred to in paragraph (a)

Disclosure and participation in meetings

- A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.
- The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
 - (a) at any time during which the matter is being considered or discussed by the Council or Committee, or
 - (b) at any time during which the Council or Committee is voting on any question in relation to the matter.

No Knowledge - A person does not breach the Act 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.

What interests do not have to be disclosed (S 448 Act)?

- (a) an interest as an elector,
- (b) an interest as a ratepayer or person liable to pay a charge,
- (c) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this Part,
- (d) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to a relative of the person by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this Part,
- (e) an interest as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not),
- (f) an interest of a member of a council committee as a person chosen to represent the community or as a member of a non-profit organisation or other community or special interest group if the committee member has been appointed to represent the organisation or group on the committee,
- (g) an interest in a proposal relating to the making, amending, altering or repeal of an environmental planning instrument other than an instrument that effects a change of the permissible uses of:
 - (i) land in which the person or a person, company or body referred to in section 443 (1) (b) or (c) has a proprietary interest (which, for the purposes of this paragraph, includes any entitlement to the land at law or in equity and any other interest or potential interest in the land arising out of any mortgage, lease, trust, option or contract, or otherwise), or
 - (ii) land adjoining, adjacent to or in proximity to land referred to in subparagraph (i), if the person or the person, company or body referred to in section 443 (1) (b) or (c) would by reason of the proprietary interest have a pecuniary interest in the proposal,
- (h) an interest relating to a contract, proposed contract or other matter if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company,
- (i) an interest of a person arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises

- because a relative of the person is a shareholder (but not a director) of the corporation or is a member (but not a member of the committee) of the association or is a partner of the partnership,
- (j) an interest of a person arising from the making by the council of a contract or agreement with a relative of the person for or in relation to any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:
 - (i) the performance by the council at the expense of the relative of any work or service in connection with roads or sanitation,
 - (ii) security for damage to footpaths or roads,
 - (iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council or by or under any contract,
 - (k) an interest relating to the payment of fees to councillors (including the mayor and deputy mayor),
 - (l) an interest relating to the payment of expenses and the provision of facilities to councillors (including the mayor and deputy mayor) in accordance with a policy under section 252,
 - (m) an interest relating to an election to the office of mayor arising from the fact that a fee for the following 12 months has been determined for the office of mayor,
 - (n) an interest of a person arising from the passing for payment of a regular account for wages or salary of an employee who is a relative of the person,
 - (o) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or member of a council committee,
 - (p) an interest arising from appointment of a councillor to a body as representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.

A Councillor is not prevented from taking part in the consideration or discussion of, or from voting on, any of the matters/questions detailed in Section 448 of the Local Government Act.

Non-pecuniary Interests - Must be disclosed in meetings.

If you are a Council official, other than a member of staff of Council and you have disclosed that a significant non-pecuniary conflict of interests exists, you must manage it in one of two ways:

- a) Remove the source of the conflict by relinquishing or divesting the interest that creates the conflict, of reallocating the conflicting duties to another Council official;
- b) Have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in Section 451(2) of the Act apply.

If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.

Disclosures to be Recorded - A disclosure (and the reason/s for the disclosure) made at a meeting of the Council or Council Committee must be recorded in the minutes of the meeting.

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AGENDA

FOR AN EXTRAORDINARY MEETING OF BURWOOD COUNCIL
TO BE HELD ELECTRONICALLY ON MONDAY 7 SEPTEMBER 2020 AT 4.00 PM.

I DECLARE THE MEETING OPENED AT (READ BY MAYOR)

ACKNOWLEDGEMENT OF COUNTRY (READ BY MAYOR)

"I would like to acknowledge the Wangal people who are the Traditional Custodian of this Land. I would also like to pay respect to the Elders both past and present of the Wangal Nation and extend that respect to other Aboriginals present".

PRAYER (READ BY MAYOR)

"Lord, we humbly beseech thee to vouchsafe thy blessing on this Council, direct and prosper its deliberations for the advancement of this area and the true welfare of its people."

RECORDING OF MEETING (READ BY MAYOR)

"Meetings of Council and Council Committees are audio recorded for the purpose of assisting with the preparation of meeting minutes and promoting meeting transparency.

Such recordings are subject to the provisions of the Government Information (Public Access) Act 2009 (GIPA) and are promptly made available for public review via the Council website.

APOLOGIES/LEAVE OF ABSENCES

DECLARATIONS OF INTERESTS BY COUNCILLORS

DECLARATION OF POLITICAL DONATIONS (READ BY MAYOR)

In light of legislation that governs the process for the determination of Development Applications before Council, a person who makes a relevant application to Council or any person with a financial interest in the application must disclose any reportable political donation or gift made to any local Councillor or employee of Council. Such disclosure is required on Development Application Forms submitted to Council.

Council is also obliged by law to publish details of all reportable political donations or gifts on its website.

Should any person having business before Council this evening and being an applicant or party with a financial interest in such application feel that they have not made the appropriate disclosure, Council now invites them to approach the General Manager and to make their disclosure according to law."

RECORDING OF COUNCILLORS VOTING ON PLANNING DECISIONS

In accordance with Section 375A of the Local Government Act a division must be called for and taken on every Environmental Planning & Assessment decision. The names of those Councillors supporting and those opposed to the decision are to be recorded in the meeting minutes and the register retained by the General Manager.

PUBLIC FEEDBACK ON AGENDA ITEMS (Read by Mayor)

The face-to-face public participation opportunity has been replaced with the opportunity to speak via teleconference link on agenda items. Written submissions are also accepted for this meeting and have been circulated directly to all Councillors. All submissions will be acknowledged at the Council Meeting and referenced in the minutes of the meeting.

ADDRESS BY THE PUBLIC ON AGENDA ITEMS COMMENCES

GENERAL BUSINESS

(ITEM 92/20) CLARIFICATION OF GENERAL MANAGER'S DELEGATIONS BY EXCEPTION AND RATIFICATION OF DECISIONS MADE BY GENERAL MANAGER 6

CONFIDENTIAL ITEMS

(ITEM 93/20) CONTRACT BETWEEN BURWOOD COUNCIL AND VISY RECYCLING - DETERMINATION OF DISCREPANCY OR INCONSISTENCY IN CONTRACT

That above item be considered in Closed Session to the exclusion of the press and public in accordance with Section 10A(2) (g) of the Local Government Act, 1993, as the matter involves advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

(ITEM 92/20) CLARIFICATION OF GENERAL MANAGER'S DELEGATIONS BY EXCEPTION AND RATIFICATION OF DECISIONS MADE BY GENERAL MANAGER

File No: 20/42103

REPORT BY GROUP MANAGER ENVIRONMENT AND HEALTH

Summary

This report aims to have the Council:

1. Clarify and confirm that the effect of each of the General Manager's Delegations and the General Manager's Delegations by Exception is that they list the functions of the Council that are not delegated to the General Manager and delegate all other functions of the Council to the General Manager;
2. Confirm that each of the General Manager's Delegations and the General Manager's Delegation by Exception were made pursuant to Section 377(1) of the *Local Government Act 1993 (the Act)*; and
3. Ratify, to the extent necessary, all decisions made by the General Manager pursuant to the General Manager's Delegations and the General Manager's Delegations by Exception as authorised by those delegations.

Operational Plan Objectives

- 2.1 - Community confidence in Council's decision making.
 2.1.3 - Ensure transparency and accountability in decision making.

Background

The Act provides the Council with powers, authorities and duties. It is the primary source of Council's functions.

There is other legislation, such as but not limited to:

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| ▪ <i>Biodiversity Act 2016</i> | ▪ <i>Library Act 1939</i> |
| ▪ <i>Biosecurity Act 2015</i> | ▪ <i>Privacy and Personal Information Protection Act 1998</i> |
| ▪ <i>Boarding Houses Act 2012</i> | ▪ <i>Protection of the Environment Operations Act 1997</i> |
| ▪ <i>Companion Animals Act 1998</i> | ▪ <i>Public Health Act 2010</i> |
| ▪ <i>Environmental Planning and Assessment Act 1979</i> | ▪ <i>Public Interest Disclosures Act 1994</i> |
| ▪ <i>Food Act 2003</i> | ▪ <i>Road Transport Act 2013</i> |
| ▪ <i>Government Information (Public Access) Act 2009</i> | ▪ <i>Roads Act 1993</i> |
| ▪ <i>Impounding Act 1993</i> | ▪ <i>Swimming Pools Act 1992</i> |

which impose further functions for Council to administer.

Due to the nature, scope and complexity of the functions Council has to perform, the Act makes provision for the Council to delegate those functions to the General Manager. However, subsection 377(1) of the Act specifies certain functions that the Council cannot delegate to the General Manager.

In addition, the General Manager may delegate any of the functions of the General Manager (other than the power of delegation) to any person or body (including another employee of the Council).

For accountability purposes a copy of the Delegations Register (including the sub-delegations from the General Manager to Council Officers) will be made available on Council's website.

History of Delegations

On 26 August 2013, Council resolved to endorse the General Manager's Delegations in accordance with section 380 of the Act and rescind the previous delegations to the General Manager (**Attachment 1**). A copy of the Council Report dated 26 August 2013 attaching the Draft – General Manager's Delegations is **Attachment 2**.

On 23 March 2015, Council resolved to endorse the General Manager's Delegations in accordance with subsection 377(2) of the Act (**Attachment 3**). A copy of the Council Report dated 23 March 2015 attaching the Draft – General Manager's Delegations is **Attachment 4**.

On 6 February 2018, Council resolved to endorse the General Manager's Delegations by Exception in accordance with section 380 of the Act and the *Environmental Planning and Assessment Act 1979* (**Attachment 5**). A copy of the Council Report dated 6 February 2018 attaching the Draft – General Manager's Delegations by Exception is **Attachment 6**.

On 24 September 2019, Council resolved to approve the General Manager's Delegations by Exception in accordance with subsection 377(2) of the Act (**Attachment 7**). A copy of the Council Report dated 24 September 2019 attaching the Revised – General Manager's Delegations by Exception is **Attachment 8**.

Each of the General Manager's Delegations and General Manager's Delegations by Exception state under the heading "Purpose" that:

"This document outlines what functions are not delegated to the General Manager and thereby the General Manager has delegation to undertake all other functions."

That is only the reference to the General Manager having delegation to undertake all other functions of the Council, that is, other than those that are not delegated to the General Manager and which are referred to in the General Manager's Delegations or General Manager's Delegations by Exception. There may be ambiguity as to whether the Council has, in fact, delegated to the General Manager all functions of the Council other than those listed in each of those delegations.

In order to resolve any ambiguity as to what functions of the Council have been delegated by the Council to the General Manager, the Council may resolve to confirm that the effect of the General Manager's Delegations and the General Manager's Delegations by Exception is that they list the functions of the Council that are not delegated to the General Manager and delegate all other functions of the Council to the General Manager.

Further, the resolutions referred to above referenced either subsection 377(2) or section 380 of the Act, when they should have referred to subsection 377(1) of the Act.

Although the error is unlikely to effect the validity of the delegations to the General Manager, the Council may resolve to confirm that each of the General Manager's Delegations and General Manager's Delegations by Exception have been endorsed or approved by the Council pursuant to subsection 377(1) of the Act.

Finally, for the abundance of caution and to the extent necessary, the Council may also resolve to ratify all decisions made by the General Manager (or the Acting General Manager) pursuant to each of the General Manager's Delegations and General Manager's Delegations by Exception as authorised by those delegations.

Financial Implications

Within Council's operational budget

Recommendation(s)

1. That the Council resolve to confirm that the effect of each of the General Manager's Delegations and the General Manager's Delegations by Exception endorsed or approved by the Council on 26 August 2013, 23 March 2015, 6 February 2018 and 24 September 2019 is that they list the functions of the Council that are not delegated to the General Manager and delegate all other functions of the Council to the General Manager.

2. That the Council resolve that each of the General Manager's Delegations and the General Manager's Delegations by Exception endorsed or approved by the Council on 26 August 2013, 23 March 2015, 6 February 2018 and 24 September 2019 were endorsed or approved pursuant to subsection 377(1) of the *Local Government Act 1993*.

3. That the Council resolve to ratify, to the extent necessary, all decisions made by the General Manager or Acting General Manager, of the Council pursuant to each of the General Manager's Delegations and the General Manager's Delegations by Exception endorsed or approved by the Council on 26 August 2013, 23 March 2015, 6 February 2018 and 24 September 2019 as authorised by those delegations.

Attachments

- 1 [↓](#) Council Minutes dated 26 August 2013
- 2 [↓](#) Council Report dated 26 August 2013
- 3 [↓](#) Council Minutes dated 23 March 2015
- 4 [↓](#) Council Report dated 23 March 2015
- 5 [↓](#) Council Minutes dated 6 February 2018
- 6 [↓](#) Council Report dated 6 February 2018
- 7 [↓](#) Council Minutes dated 24 September 2019
- 8 [↓](#) Council Report dated 24 September 2019



Burwood Council
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BURWOOD COUNCIL MEETINGS

MINUTES OF THE MEETING OF THE COUNCIL OF BURWOOD held at the Council Chamber, Suite 1, Level 2, 1-17 Elsie Street, Burwood on Monday, 26 August 2013 commencing at 6.00pm.

ATTENDANCE

Councillor Sally Deans
Councillor Tony Doueihi
Councillor John Faker (Mayor)
Councillor Lesley Furneaux-Cook
Councillor George Mannah
Councillor Justin Taunton
Councillor Ernest Wong (Deputy Mayor)

Mr M McMahon, General Manager
Ms V Lee, Deputy General Manager Corporate, Governance & Community
Mr B Macdonnell, Deputy General Manager Land, Infrastructure & Environment
Mr T Briscese, Executive Manager
Mr J Inglese, Senior Manager Assets and Design
Mr B Mortimer, Manager Organisational Development
Ms Y Tome, Acting Governance Co-ordinator

OPENING OF MEETING BY THE MAYOR

The Mayor opened the meeting with a prayer.

OPEN FORUM

Name	Item
Mr E Harvey 60 Cheltenham Road Croydon	Blair Park Public Meeting

APOLOGIES

That there were no apologies.

DECLARATIONS OF INTEREST

Councillor John Faker declared a non pecuniary less than significant interest in Item 61/13 Council Premises 5-7 Elizabeth Street Burwood – Transfer of Disused Sewer Main from Sydney Water to Council as the applicant is known to him through the church community.

DECLARATIONS OF POLITICAL INTEREST

There were no declarations of political interests by Councillors.

CONFIRMATION OF MINUTES**108/13 RESOLVED** (Carried Unanimously)

That the minutes of the meeting of the Council of Burwood held on Tuesday, 25 June and Tuesday, 23 July 2013, as circulated, be confirmed and signed as a true record of the proceeding of the meeting.

(Moved Councillor Lesley Furneaux-Cook/Seconded Deputy Mayor Ernest Wong)

ADDRESS BY THE PUBLIC ON AGENDA ITEMS

Name	Item
Ms D Saidi 55 Rose Street Croydon Park	Item NM1/13 Lighting in Grant Park Leash Free Area
Mr E Harvey 60 Cheltenham Road Croydon	Item 62/13 Council Advisory Committees Review

MAYORAL MINUTES**(ITEM MM14/13) BURWOOD COUNCIL RESIDENT PARKING SCHEME MAP**

File No: 13/33963

Summary

I recently met with a resident regarding the level of detail provided to residents in relation to the Resident Parking Scheme areas. It appears that the resident misunderstood the detail in the map which led to an infringement being issued in respect of parking in the wrong area.

I believe it is necessary to have a review of the detail in this map to eliminate any uncertainty between resident parking areas and areas covered by parking meters.

109/13 RESOLVED (Carried Unanimously)

1. Council staff review the current maps provided to residents as part of the Resident Parking Scheme to give more clarity and detail as to where the Parking Scheme areas are defined and the areas covered by parking meters.
2. Council staff provide an Information Sheet to residents when they receive such permits.

(ITEM MM15/13) SEPTEMBER 2013 COUNCIL MEETING

File No: 13/33949

Summary

I would like to reschedule the Ordinary Council Meeting on Monday 23 September 2013 to Monday 9 September 2013.

Monday 9 September 2013 is scheduled for a B&D Committee meeting but, at this point in

This is page 2 of the Minutes of the Ordinary Meeting of Burwood Council held on 26 August 2013

MINUTES OF BURWOOD COUNCIL MEETINGS

26 AUGUST 2013

time, there are no items listed for this meeting.

I also propose to hold this meeting to elect the Deputy Mayor and the various Council Committees' Chairs and Delegates.

I would expect there will be further items on the agenda which will be determined in due course.

110/13 RESOLVED (Carried Unanimously)

1. The Ordinary Council Meeting scheduled for Monday 23 September 2013 be held on Monday 9 September 2013, and the meeting scheduled for Monday 23 September 2013 be cancelled.
2. A Deputy Mayor election be held, and the Chairs and Delegates to the various Council Committees be chosen at this meeting.
3. That an apology be accepted and noted for Councillor Lesley Furneaux-Cook for the 9 September 2013 Council Meeting.

(ITEM MM16/13) STORAGE OF HISTORIAL RECORDS IN THE NEW BURWOOD LIBRARY AND COMMUNITY HUB

File No: 13/33954

Summary

At the recent commencement ceremony conducted for the Library & Community Hub project, I was approached by the President of the Burwood & District Historical Society about the Society's records and the availability of some storage being available in the newly refurbished library and community hub.

I will ask the Burwood & District Historical Society to provide details about the records and items they are seeking to have stored and the assessment of the value of these items, preservation and future access to their records. This information will assist our staff in determining whether Council has the capability to look after these items.

111/13 RESOLVED (Carried Unanimously)

The Mayor writes to the Burwood and District Historical Society seeking information to allow Council staff to investigate whether Council has the capability to look after these items in the newly refurbished library and community hub building.

(ITEM MM17/13) COMMERCIAL SPACE WITHIN THE BURWOOD LGA

File No: 13/33972

Summary

I recently met with our Local Member for Strathfield, Charles Casuscelli, and had preliminary discussions with agents and commercial property owners in Burwood regarding the availability of commercial space in new developments and the possibility of the State Government taking up some of the commercial space through the policy of decentralisation of Government offices from the City to the Major Centres.

Burwood is a Major Centre as categorised by the NSW State Government and especially because of its close proximity to the City, access to public transport links and, the abundance of retail shopping and cafes, makes it a desirable place for the location of Government offices and their staff.

This is page 3 of the Minutes of the Ordinary Meeting of Burwood Council held on 26 August 2013

112/13 RESOLVED (Carried Unanimously)

The Mayor writes to the Minister for Finance and the Local Member seeking a delegation for the purpose of discussing how the Government's decentralisation programme of Government offices could utilise more commercial space opportunities within the Burwood Town Centre.

NOTICES OF MOTION**(ITEM NM1/13) LIGHTING IN GRANT PARK LEASH FREE AREA**

File No: 13/31662

Summary

Last month I submitted to Council a petition from Ms Dani Saidi on behalf of over 100 users of the leash free area at Grant Park, Enfield. The petition requests Council to consider the provision of lighting to enable use during the prescribed times.

Background

The leash free park is divided into two sections with the top section open until 8pm and the lower section open until 6pm daily. Currently there is no lighting provided.

The lack of lighting severely restricts the use of the leash free park, particularly the top section during the winter months where sunset begins around 5pm.

I understand many of the users of the park are full time workers and have restricted hours to walk and socialise their dogs.

The table below indicates the average sunsets for the year:

Months	Sunset
October - March	7-8pm
April - September	5-6pm

For six months of the year the leash free area is in darkness after approximately 5pm. Other issues regarding lack of lighting include:

- Personal security of users
- Safety entering and exiting using concrete steps to the park
- Inability to be fully responsible dog owners

The petition also highlights that lighting in the area will improve safety for patrons of Enfield Pool using the rear car park. No increase in the prescribed times is requested.

113/13 RESOLVED (Carried Unanimously)

1. That Council Officers investigate the option of providing lighting to the top section of Grant Park leash free area, including funding options.
2. That Council Officers report their findings to a future Council Meeting.
3. That Council considers instalment of lighting as part of the 2014 works program.

(Moved Councillor Lesley Fumeaux-Cook/Seconded Deputy Mayor Ernest Wong)

This is page 4 of the Minutes of the Ordinary Meeting of Burwood Council held on 26 August 2013

(ITEM NM2/13) THE WHITE PAPER AND ACCOMPANYING PLANNING BILL 2013 EXPOSURE DRAFT REPRESENT THE MOST SIGNIFICANT CHANGES TO NSW PLANNING LEGISLATION THE LAST 30 YEARS

File No: 13/31971

Background

The exhibition of the White Paper and draft Bill regarding the changes to NSW planning laws attracted over 4,500 submissions from public bodies, non-government organisations, community groups and individuals.

Burwood Council submitted its own submission. While supportive of the intent of the legislation, a number of concerns were raised including the following:

- Potential community backlash on its powerlessness to comment on individual development proposals
- Limited commitment to heritage conservation, environmental protection or design quality resulting in significant uncertainty for the community
- Funding commitments to State and Regional infrastructure to meet demand e.g Burwood Railway Station capacity

Other reputable public authorities have also identified significant concerns. For example:

The Independent Commission Against Corruption, states:

'The new system creates complexity and confusion by allowing developments to be approved that do not comply with the stated requirements.'

The full ICAC submission is available via this link:

http://communitycouncillorsnetwork.files.wordpress.com/2013/07/171_nsw-icac.pdf

The Law Society of NSW says:

'If one of the purposes of the new legislation is to minimise the risk for actual or perceived corruption in the decision-making in the planning sphere, the breadth of the Minister's discretionary powers is of concern.'

The full Law Society of NSW Submission is available here:

http://communitycouncillorsnetwork.files.wordpress.com/2013/07/www-lawsociety-com-au_cs_groups_public_documents_internetpolicysubmissions_752431.pdf

The NSW Chapter of the Australian Institute of Architects (AIA) says:

'... the Planning Bill explicitly replaces the Heritage Council with the Director-General as the consent authority The Institute objects strongly to this proposal, which would jeopardise the values of the State's key heritage items.'

Read the full submission of the AIA here:

<http://communitycouncillorsnetwork.files.wordpress.com/2013/07/australian-institute-of-architects-submission-to-white-paper-june-2013.pdf>

I attended a Department of Planning and Infrastructure briefing on the White Paper before the close of the Public Exhibition period. It was made clear by Departmental staff that they would struggle to be ready for the anticipated presentation of the draft legislation to the

This is page 5 of the Minutes of the Ordinary Meeting of Burwood Council held on 26 August 2013

MINUTES OF BURWOOD COUNCIL MEETINGS

26 AUGUST 2013

NSW Parliament in September 2013. It should be noted that at the time of writing, Burwood Council's submission has yet to be put on the Department's website.

With the volume of responses, the unrealistic timeframe, the importance of the legislation and the clear level of concern, it would seem to be the most logical, prudent and accountable course of action for the Department to make appropriate amendments to the draft Bill and re-exhibit. Only time will give a meaningful response to all submissions in the form of amendments. This will ensure that community consultation, which is a stated cornerstone of the proposed Bill, is seen to be done.

114/13 RESOLVED (Carried Unanimously)

1. That the Mayor write to the NSW Premier, the Hon Barry O'Farrell MP requesting that, given the concerns raised by the ICAC, the Australian Institute of Architects, the Law Society of NSW, this Council and the unprecedented volume of submissions, he commit to a re-writing of the Planning Bill 2013 Exposure Draft and a re-exhibition of the proposed legislation.
2. That the Mayor writes to Local Government NSW urging the Presidents to make continued representations to the Premier that the proposed planning legislation should not be presented to Parliament until further extensive re-writing and consultation has occurred with those organisations who will have the primary responsibility of implementing the Act i.e. Local Government.
3. That the Mayor write to the Sydney Mayor's Association urging them to make personal representations to the Premier, regarding the proposed planning legislation.
4. That copies of the above correspondence be sent to the Local State Member for Strathfield, Charles Casuscelli MP.

(Moved Councillor Lesley Fumeaux-Cook/Seconded Deputy Mayor Ernest Wong)

REPORTS OF COMMITTEES**(ITEM RC4/13) BURWOOD LOCAL TRAFFIC COMMITTEE - 1 AUGUST 2013**

File No: 13/31021

Summary

Attached are the Minutes of the Burwood Local Traffic Committee from its meeting of 1 August 2013. The Minutes are hereby submitted to the Ordinary Council Meeting for consideration and adoption by Council.

115/13 RESOLVED (Carried Unanimously)

That the minutes of the Burwood Local Traffic Committee of 1 August 2013 be noted and the recommendations of the Committee as detailed below be adopted as a resolution of the Council.

(ITEM T.19/13) BELMORE STREET, BURWOOD - INSTALLATION OF CENTRE LINE**Recommendation**

That Council approves the installation of a S1 centre line on Belmore Street, between Burwood Road and Shaftesbury Road.

This is page 6 of the Minutes of the Ordinary Meeting of Burwood Council held on 26 August 2013

MINUTES OF BURWOOD COUNCIL MEETINGS

26 AUGUST 2013

(ITEM T.20/13) SEYMOUR STREET, CROYDON PARK - CONVERSION OF NO PARKING TO 10 MINUTE PARKING***Recommendation***

That Council approves the conversion of the current Kiss and Ride Zone on the eastern side of Seymour Street, adjacent Croydon Park Public School, to 10 minute parking 8am-9.30am 2.30pm-4pm School Days only, for a trial period of three months.

(ITEM T.21/13) KENT AVENUE, CROYDON PARK - INSTALLATION OF NO PARKING ZONE***Recommendation***

That Council approves the installation of 'No Parking' restrictions on the western side of Kent Avenue, Croydon Park for a length of 50.0m.

(Moved Deputy Mayor Ernest Wong/Seconded Councillor Lesley Furneaux-Cook)

GENERAL BUSINESS**(ITEM 61/13) COUNCIL PREMISES 5-7 ELIZABETH STREET BURWOOD - TRANSFER OF DISUSED SEWER MAIN FROM SYDNEY WATER TO COUNCIL**

File No: 13/29016

Summary

The development at 1-3 Elizabeth Street, Burwood required the diversion of the sewer main around Council's premises at 5-7 Elizabeth Street. The resultant disused sewer main is now required to be transferred to Council's ownership by way of the execution of a Sydney Water Deed of Transfer and Indemnity.

116/13 RESOLVED (Carried Unanimously)

1. That Council approves the execution of the Deed of Transfer and Indemnity for the transfer of the disused sewer main at 5-7 Elizabeth Street, Burwood, from Sydney Water to Council.
2. That the General Manager be authorised to execute the Deed of Transfer and Indemnity.

(Moved Councillor Tony Doueih/Seconded Councillor Lesley Furneaux-Cook)

(ITEM 62/13) COUNCIL ADVISORY COMMITTEES REVIEW

File No: 13/30772

Summary

Following a Councillors Workshop on 12 March 2013 regarding the future of Council Committees, further work has been undertaken, including a desktop benchmarking of other Councils' Committees and a survey of existing Committee Members (not including Councillors).

The findings were presented at a Councillors Workshop on 5 August 2013. This report includes the data received and analysed and provides recommendations on the future of the Access Committee, Environment and Sustainability Committee, Multicultural and Community Committee and the Community Safety Committee.

This is page 7 of the Minutes of the Ordinary Meeting of Burwood Council held on 26 August 2013

MINUTES OF BURWOOD COUNCIL MEETINGS

26 AUGUST 2013

- 117/13 RESOLVED** (Carried Unanimously)
1. That Council discontinue the Community Safety Committee.
 2. That Council discontinue the Environment and Sustainability Committee.
 3. That Council utilise the outcomes of the Disability Action Plan and Multicultural Strategy to determine the future of the Access Committee and Multicultural Committee.

(Moved Deputy Mayor Ernest Wong/Seconded Councillor Justin Taunton)

(ITEM 63/13) INVESTMENT REPORT AS AT 31 JULY 2013

File No: 13/30875

Summary

In accordance with Clause 212 of the *Local Government (General) Regulation 2005*, this report details all money that Council has invested under Section 625 of the *Local Government Act 1993*.

- 118/13 RESOLVED** (Carried Unanimously)
1. That the Investment Report for 31 July 2013 be approved.
 2. That the Certificate of the Responsible Accounting Officer be received and noted.

(Moved Councillor Tony Doueihy/Seconded Councillor Sally Deans)

(ITEM 64/13) LOCAL GOVERNMENT NSW ANNUAL CONFERENCE 2013 - NOMINATION OF DELEGATES & OBSERVERS

File No: 13/31247

Summary

The inaugural Local Government NSW Annual Conference is being held from 1-3 October 2013 at Sydney Town Hall. Council can nominate four Voting Delegates and, as customary, Observers to attend the Conference.

A number of important topics will feature in the Conference programme, including the referendum, the findings in the Independent Local Government Review Panel's final report, the future financial viability of Councils, the Local Government Act review and the proposed Planning reforms.

The Conference is also allowing delegates to vote for the new Board of the One Association (Local Government NSW).

- 119/13 RESOLVED** (Carried Unanimously)
1. Council nominated Councillors John Faker, Ernest Wong, George Mannah and Sally Deans as Voting Delegates for the 2013 Local Government NSW Conference to be held in Sydney from 1-3 October 2013 and organise registration for those delegates.
 2. That the General Manager, Councillors Lesley Furneaux-Cook and Tony Doueihy be authorised to attend and that the nominated Observers confirm their attendance by 30 August 2013 to the General Manager.

(Moved Councillor George Mannah/Seconded Deputy Mayor Ernest Wong)

This is page 8 of the Minutes of the Ordinary Meeting of Burwood Council held on 26 August 2013

**(ITEM 65/13) NSW LOCAL INFRASTRUCTURE RENEWAL SCHEME APPLICATION
ROUND TWO**

File No: 13/32678

Summary

The Minister for Local Government has advised Council that an application for a 3% loan interest subsidy under the NSW Government's Local Infrastructure Renewal Scheme (LIRS) Round Two has been successful.

120/13 RESOLVED (Carried Unanimously)

1. That Council approve the proposal to seek offers of interest from various financial institutions to service Council's requirement to fund the \$1 million loan.
2. That Council request a further report on the successful Financial Institution and interest rate offered to Council.
3. That Council authorise the General Manager to complete and sign the necessary Division of Local Government documentation accepting the offer of 3% interest subsidy on the \$1 million Loan Borrowing Program.
4. That Council write to the Minister for Local Government thanking him for the approval of the 3% loan subsidy.

(Moved Councillor Sally Deans/Seconded Councillor Lesley Furneaux-Cook)

(ITEM 66/13) REVIEW OF THE GENERAL MANAGER'S DELEGATIONS WITHIN 12 MONTHS AFTER THE ORDINARY ELECTION - S.380 OF THE LOCAL GOVERNMENT ACT 1993

File No: 13/18923

Summary

To seek Council's review and approval of the General Manager's Delegations following the Ordinary Council Election in 2012 as required by section 380 of the *Local Government Act 1993*.

121/13 RESOLVED (Carried Unanimously)

1. That Council endorses the General Manager's Delegations in accordance with Section 380 of the *Local Government Act 1993*.
2. That Council rescinds the Delegations General Manager (Min No. 61/10) and the Delegations Guidelines (Min No. 141/09) which are no longer required.

(Moved Councillor Tony Doueih/Seconded Councillor George Mannah)

(ITEM 67/13) REVIEW OF THE ORGANISATION STRUCTURE WITHIN 12 MONTHS AFTER THE ORDINARY ELECTION - S.333 OF THE LOCAL GOVERNMENT ACT 1993

File No: 13/31544

Summary

This report recommends the review and re-determination of Council's Organisation Structure following on from the Ordinary Election in 2012 as required by Section 333 of the *Local Government Act 1993*.

This is page 9 of the Minutes of the Ordinary Meeting of Burwood Council held on 26 August 2013

MINUTES OF BURWOOD COUNCIL MEETINGS

26 AUGUST 2013

- 122/13 RESOLVED** (Carried Unanimously)
That Council adopts the existing two divisional structure with the minor variations proposed in this report in accordance with Section 333 of the *Local Government Act 1993*.

(Moved Councillor Lesley Furneaux-Cook/Seconded Councillor Justin Taunton)

(ITEM 68/13) DELIVERY PROGRAM 2011/15 - QUARTERLY REPORT FOR THE PERIOD ENDING 30 JUNE 2013

File No: 13/30909

Summary

Following introduction of the Integrated Planning and Reporting framework in 2009, Section 404(5) of the *Local Government Act 1993* requires that the General Manager provide progress reports to the Council, at least every six months, as to its progress with respect to the principal activities detailed in its Delivery Program.

As per Burwood Council's Delivery Program 2011-15 (Strategic Goal 2.1.3), a review of the Program is to be presented to Council on a quarterly basis.

- 123/13 RESOLVED** (Carried Unanimously)
That Council endorse the Delivery Program 2011-15 Quarterly Report for the period ending 30 June 2013.

(Moved Councillor Sally Deans/Seconded Deputy Mayor Ernest Wong)

INFORMATION ITEMS

(ITEM IN19/13) APPIAN WAY UPDATE REPORT

File No: 13/31976

Summary

To inform Council that the works to repair and install a structural lining of the stormwater drainage pipeline through No. 13 Appian Way, Burwood has now been completed. The works on the existing 400mm diameter drainage pipeline that connects the drainage system in Appian Way to the down stream system in Wyatt Avenue was undertaken during the last two weeks of July 2013. This 100m long section of pipeline has now been restored to its original functioning capacity.

Background

In November 2011, Council received a complaint from the new owners of No. 13 Appian Way Burwood about the blocked on-street drainage pits in front of their property and the overflow of storm water entering their property. Council's Depot staff immediately responded by cleaning out the large storm water pits in Appian Way which contained a considerable amount of leaf litter. Staff then tried to unblock the existing storm water pipe in front of No. 13 Appian Way which was found to be running through the centre of the property of No. 13 Appian Way.

Following this Council staff including the Deputy General Manager Land, Infrastructure and Environment (DGM – LI&E) met with the new owners of No. 13 Appian Way on 7 December 2011 to explain the situation and to assure them that Council would be doing everything it

This is page 10 of the Minutes of the Ordinary Meeting of Burwood Council held on 26 August 2013

MINUTES OF BURWOOD COUNCIL MEETINGS**26 AUGUST 2013**

could to resolve the matter as soon as practicable. On 12 December 2011, Council received a letter from the Norton Law Group (NLG) representing the owners of No. 13 Appian Way instructing Council to cease discharging water and to withdraw all temporary drainage hoses etc. from No. 13 Appian Way and that any further discussions relating to the discharge of water would need to be through the NLG office.

Since that time Council worked constructively with the owners of No. 13 Appian Way and their legal representatives in attempt to find a suitable solution. This interaction was characterised by significant correspondence, provision of information and meetings.

On 3 April 2013 Council received advice from NLG re-stating that the owners of No. 13 Appian Way had conceded that:

- A) *Our client noted Council's position that it owns the subject pipe for the purposes of Sect 59A of the Local Government Act 1993 ("the Act")*
- B) *Our client noted that Council's investigations show that the pipe requires maintenance for it to operate in an efficient manner and;*
- C) *It was stated that "in the circumstances, our client is prepared to consent the repairs being undertaken and will allow access for that purpose".*

Following this letter, tender documents were finalised in April 2013 for the repair and structural lining of the subject pipeline and were placed on Tenderlink. During the tender process, a prospective contractor's site meeting was held on 1 May 2013. After the tender closed, the selection process was finalised by the Tender Assessment Panel and a contractor was selected to undertake the repair and structural lining works.

A meeting was held on 29 May 2013 with the management of Insituform P/L to discuss the details of the project and set a commencement date. On 4 June 2013 (before any works commenced on the site) Insituform P/L completed a dilapidation report of the house, pool and grounds of the property of No.13 Appian Way and on 7 June 2013 a thorough CCTV investigation of the pipeline was carried out. The results and Recommendation Report were presented to Council staff on Thursday 13 June 2013. Approximately 3m of the subject pipeline under the grassed area in the front yard of No. 13 Appian Way had collapsed and needed to be repaired (refer Attachment 1). The remaining pipeline was in a reasonable condition to allow a structural lining to be implemented.

Works on the repair of the pipeline commenced on 16 July 2013 and took approximately one week to complete (refer Attachment 2). The structural lining works were undertaken on 23 July 2013 and were completed on the same day (refer Attachment 3). A final dilapidation inspection was carried out on 2 August 2013.

In all, the actual Civil Engineering works to repair and install the structural lining of the subject pipeline took seven working days to complete with minimal disruption to the street and the residents. By 26 July 2013, the large pump, hoses and steel plates that were installed in December 2011 to temporarily pump stormwater back to Burwood Road were removed from Appian Way.

Consultation

Over the past 18 months, the residents of Appian Way have been kept informed of the progress of this matter through the Mayor's Office. At the time of writing this report there had been three separate letters sent to all the residents of Appian Way from the Mayor and a number of individual letters sent to some of the residents.

Planning or Policy Implications

No policy implications in relation to this matter.

Financial Implications

The cost of the repair and re-lining of the subject pipeline was \$80,000.

Conclusion

The now completed repair and structural lining works on the existing 100m long, 400mm diameter drainage pipeline through No.13 Appian Way connecting the drainage system in Appian Way to the system in Wyatt Avenue has resulted in this pipeline being restored back to its original functional capacity.

No Decision – Information Item Only**(ITEM IN20/13) MINUTES OF THE SYDNEY METROPOLITAN MAYORS MEETING - 17 JULY 2013**

File No: 13/28956

Summary

Sydney Metropolitan Mayors have formed an association that focuses on the Sydney Metropolitan Area. It collaborates and consults with the Federal and NSW Governments to represent the common and emerging issues affecting Councils in the area and the future of the region.

The first Sydney Metropolitan Mayors meeting was held on 17 July 2013. The minutes of the meeting were submitted for Council's reference.

No Decision – Information Item Only**(ITEM IN21/13) BURWOOD STATE EMERGENCY SERVICES UNIT**

File No: 13/28642

Summary

Burwood State Emergency Services Unit (SES) has released its half yearly Operational Activity Report on its operational duties and activities undertaken by their members from January to June 2013. Burwood SES undertook 61 tasks involving 1,925.25 member hours as follows:

Request for Assistance

The tasks include request for assistance due to storm damage, flooding and other related assistance to either other Units or Emergency Services within the Burwood LGA, and out of area assistance. The unit undertook 27 tasks involving 255.75 member hours.

Training Activities

Activities include training for new members qualifying in core skills and refresher training for ongoing and qualified members. The unit undertook 29 tasks involving 1547.50 member

This is page 12 of the Minutes of the Ordinary Meeting of Burwood Council held on 26 August 2013

MINUTES OF BURWOOD COUNCIL MEETINGS

26 AUGUST 2013

hours.

Community Engagement

The SES attended a number of community events including, ANZAC memorial services, advice on being StormSafe and recruitment of new members during National Volunteer Week. The unit undertook 5 tasks involving 122 member hours.

Council would like to acknowledge the Burwood SES's continuing commitment to the Burwood Community and in particular their attendance at community events such as ANZAC, StormSafe and recruitment of new members during National Volunteer Week.

No Decision – Information Item Only

(ITEM IN22/13) PETITIONS

File No: 13/29723

Summary

Council has received two petitions since the last Council Meeting.

Background

Date Received	Petition Subject	No. of Petitioners within the LGA	No. of Petitioners outside the LGA	Responsible Council Division
30 July 2013	Request to Burwood Council for an after hours lighting solution at Grant Dog Park	133	0	Land, Infrastructure and Environment
1 August 2013	Residents objecting to Development of Multi-unit dwellings (40 Units) Proposal as described above – BD.2013.082 – 22-24 Grosvenor Street	7	0	Land, Infrastructure and Environment

Comments

That Council notes that the Petitions have been referred to the appropriate Council Officers for attention.

No Decision – Information Item Only

(ITEM IN23/13) ANSWERS TO QUESTIONS WITHOUT NOTICE FOR THE COUNCIL MEETING OF 23 JULY 2013

File No: 13/29510

Summary

At the Council Meeting of 23 July 2013 the following Questions without Notice (QWN) were submitted by Councillors. Staff responded to the QWN and Councillors were notified on 1 August 2013 of the outcome of the QWN.

This is page 13 of the Minutes of the Ordinary Meeting of Burwood Council held on 26 August 2013

These are now submitted as part of the Council Agenda for Public Notification.

QUESTIONS WITHOUT NOTICE – COUNCIL MEETING OF 23 JULY 2013	
Question	Response
<p><u>Q12 – Councillor Lesley Furneaux-Cook</u></p> <p>At the intersection of Park Road and Gladstone Street, Burwood two street lights are not working. Could Council Officers investigate and have the lights fixed?</p>	<p><u>DGM Land Infrastructure and Environment</u></p> <p>Council officers undertook a night audit of the intersection to determine the condition of the current street lighting. The inspection confirmed that one street light was inoperative which has since been repaired. All street lights are now operating as required.</p>
<p><u>Q13 – Councillor Lesley Furneaux-Cook</u></p> <p>Could Council Officers check the road surface conditions along Everton Road, Strathfield near Strathfield Station just before the roundabout?</p>	<p><u>DGM Land Infrastructure and Environment</u></p> <p>Council officers have inspected the condition of the road pavement on the approach to the roundabout in Everton Road near Strathfield and will program repair work to rutting of asphalt surface in the next few months.</p>
<p><u>Q14 – Councillor George Mannah</u></p> <p>In regard to the derelict Property between the two roundabouts on Burwood Road (opposite the Anglican Church), could a brief be provided on the property and what council has done to date, i.e. in the past and now be provided?</p>	<p><u>DGM Land Infrastructure and Environment</u></p> <p>The subject site has attracted a significant amount of community interest over the years and Council is aware of the derelict state of the property, including the fence. The owner of the property has recently been requested to carry out all necessary works to the building to prevent unauthorised access and ensure that the building is not a danger to the public or be prejudicial to persons or property in the neighbourhood.</p>
<p><u>Q15 – Councillor George Mannah</u></p> <p>In relation to the railway bridge on the northern side and above the barber shop at Burwood Station, could Council Officers investigate the removal of the unsightly graffiti?</p>	<p><u>DGM Land Infrastructure and Environment</u></p> <p>Graffiti on the railway bridge is Railcorp's responsibility and has always been reported and cleaned by their contractors as this is Railcorp's asset and Council is not authorised to touch it. Graffiti above the barber shop is the owner's responsibility and is not part of agreed level of service for graffiti removal.</p>

No Decision – Information Item Only

This is page 14 of the Minutes of the Ordinary Meeting of Burwood Council held on 26 August 2013

MINUTES OF BURWOOD COUNCIL MEETINGS

26 AUGUST 2013

CONFIDENTIAL ITEMS - CLOSED SESSION**124/13 RESOLVED** (Carried Unanimously)

That the meeting move into closed session in order to consider Item MM16/13 General Manager Annual Performance Review for the Period Ending 30 June 2013.

(Moved Deputy Mayor Ernest Wong/Seconded Councillor Sally Deans)

THERE WERE NO REPRESENTATIVES FROM THE PUBLIC TO ADDRESS THE COUNCIL BEFORE THE RESOLUTION TO MOVE INTO CLOSED SESSION WAS CARRIED.

THE MEETING MOVED INTO CLOSED SESSION AT 6.45PM THE PUBLIC AND PRESS EXCLUDED FROM THE MEETING.

THE DEPUTY GENERAL MANAGER LAND, INFRASTRUCTURE AND ENVIRONMENT LEFT THE MEETING AT 6.45PM

THE GENERAL MANAGER, DEPUTY GENERAL MANAGER CORPORATE, GOVERNANCE AND COMMUNITY, EXECUTIVE MANAGER, SENIOR MANAGER ASSETS AND DESIGN, ACTING GOVERNANCE CO-ORDINATOR LEFT THE MEETING AT 6.45PM.

THE MEETING RESUMED IN OPEN SESSION AT 6.55PM.

THE GENERAL MANAGER, DEPUTY GENERAL MANAGER CORPORATE, GOVERNANCE AND COMMUNITY, EXECUTIVE MANAGER, SENIOR MANAGER ASSETS AND DESIGN AND ACTING GOVERNANCE CO-ORDINATOR RETURNED TO THE MEETING AT 6.55PM.

(ITEM MM16/13) GENERAL MANAGER ANNUAL PERFORMANCE REVIEW FOR THE PERIOD ENDING 30 JUNE 2013

File No: 13/33607

Summary

Following the meeting of the Performance Review Panel in August 2013 which consisted of the Mayor, Cr John Faker, Cr Lesley Furneaux-Cook and Cr Justin Taunton, a report was prepared by the Panel with the administrative support of the Council's Manager Organisation Development. It details the outcomes of the discussions between the members of the Panel and the General Manager, Michael McMahon, in relation to his third Annual Review of Performance.

125/13 RESOLVED (Carried Unanimously)

1. Council accepts the Performance Review Panel's determination of the General Manager's performance for the period ending 30 June 2013 and congratulates the General Manager on his performance.
2. Council increases the General Managers' Total Remuneration package as per the recommendations of the Performance Review Panel in their report dated August 2013.
3. That the Mayor be authorised to grant special leave to the General Manager for the purposes of the Professional Development undertaken in 2013/14 and to approve any of those identified activities in Part C of the Professional Development Plan for 2013/14.
4. Council approves the General Manager's Performance Plan for 2013/14.

(Moved Deputy Mayor Ernest Wong/Seconded Councillor Justin Taunton)

This is page 15 of the Minutes of the Ordinary Meeting of Burwood Council held on 26 August 2013

QUESTIONS WITHOUT NOTICE

The following Questions Without Notice were submitted at the Meeting:

Councillor Lesley Furneaux-Cook

Could staff report on the outcome of the assessment of the information provided by Robert Street residents on the alleged illegal boarding houses in their street?

Councillor Lesley Furneaux-Cook

Can Council update its website information on Development Applications received as it still remains as at 18 July 2013?

Councillor Lesley Furneaux-Cook

What action can Council take with regard to the rubbish on the footpath next to the vacant lot and within the vacant lot at 96 Liverpool Road, Burwood Heights?

Councillor John Faker

In relation to the property on Duff Street, as its heritage listed can Council issue an order to restore the heritage fence?

Councillor John Faker

Can the General Manager write to the State Member and State Rail in relation to the mural on the overhead bridge on the corner of Burwood Road and Railway Parade (Railway Bridge) and can Council check whether the security cameras recorded an incident?

Councillor Justin Taunton

Can Council investigate the boarding houses in Robert Street, following allegations raised by residents at the Building and Development Committee Meeting on 19 August 2013 of alleged illegal activity?

Councillor Justin Taunton

Can Council review a request for traffic calming devices in Weldon Street?

Councillor Justin Taunton

Can Council investigate the issue reported from the resident Ms Eva La Rocca in relation to the state of the nature strips along Liverpool Road and Burwood Road, Burwood Heights?

This concluded the business of the meeting and Council rose at 7.05pm.

Confirmed this 9th Day of September 2013.

MAYOR

GENERAL MANAGER

**(ITEM 66/13) REVIEW OF THE GENERAL MANAGER'S DELEGATIONS
WITHIN 12 MONTHS AFTER THE ORDINARY ELECTION - S.380 OF THE
LOCAL GOVERNMENT ACT 1993**

File No: 13/18923

REPORT BY GENERAL MANAGER

Summary

To seek Council's review and approval of the General Manager's Delegations following the Ordinary Council Election in 2012 as required by section 380 of the *Local Government Act 1993*.

Background

The General Manager's Delegations were last endorsed by Council on 27 April 2010 (Min. No. 61/10). In accordance with Section 380 of the Act the Delegations must be reviewed within twelve months of each Ordinary Council Election.

The Act provides Council with powers, authorities and duties. It is the primary source of Council's functions although other legislation, such as the *Environmental Planning and Assessment Act 1979* and the *Roads Act 1993*, impose further functions for Council to administer.

Due to the nature, scope and complexity of the functions Council has to perform, the Act makes provision for the Council to delegate those functions to the General Manager. However, section 377(1) of the Act provides functions that Council cannot delegate to the General Manager (refer page 2 Attachment 1).

There are two options that Councils use to present the delegations as follows:

Option 1 – a presentation of the Delegations by Exception. The Delegations detail the functions that the General Manager is not authorised to conduct and therefore there is an assumption that all other activities are within the delegation of the General Manager (refer Attachment 1).

Option 2 – is a more detailed presentation that includes the following:

- Council's Power to Delegate
- Functions of the General Manager
- All of the functions delegated to the General Manager
- Functions conferred or imposed on Council under other Acts and Regulations

Both formats have advantages and disadvantages. The Delegations by Exception are easy to maintain and do not have to be updated for any changes to related legislation or policy. This presentation may be advantageous at this time given the significant forecast changes to both the *Local Government Act 1993* and the *Environmental Planning and Assessment Act 1989*. However, they may create ambiguity in circumstances where the line between the function of Council and the General Manager is not so clear.

Conversely, the detailed Delegations assist both Councillors and Council Officers to clearly understand the functions of the General Manager, why delegations are important and the purpose. Whilst a more detailed presentation may facilitate more efficient Council Officer decision making, they are required to be reviewed more regularly due to the need to reflect legislative and policy changes.

Both options are considered appropriate, however at this point in time with detailed changes to relevant legislation being imminent it is possibly more efficient to proceed with Option 1. Once implemented it would be prudent to monitor Councillor and staff understanding of the delegations given the new presentation.

In addition, the General Manager may delegate any of the functions of the General Manager (other than the power of delegation) to any person or body (including another employee of the Council). For accountability purposes a copy of the Delegations Register (including the sub-delegations from the General Manager to Council Officers) will be made available on Council's website.

Proposal

That Council endorses the General Manager's Delegations in accordance with the *Local Government Act 1993*.

Planning or Policy Implications

Council adopted the following documents which are now superseded and are to be rescinded by Council:

1. Delegations Guidelines - Adopted on 30 June 2009 (Min No. 141/09)
2. Delegations General Manager - Adopted on 27 April 2010 (Min No. 61/10)

Financial Implications

No Financial implications.

Conclusion

That Council endorse the General Manager's Delegations in accordance with Section 380 of the *Local Government Act 1993* which states that a Council must, within twelve months after each ordinary election, review all of its delegations.

Recommendation(s)

1. That Council endorses the General Manager's Delegations in accordance with Section 380 of the *Local Government Act 1993*.
2. That Council rescinds the Delegations General Manager (Min No. 61/10) and the Delegations Guidelines (Min No. 141/09) which are no longer required.

Attachments

- | | | |
|---|-------------------------------------|----------|
| 1 | Draft - Delegations General Manager | 3 Pages |
| 2 | Delegations Guidelines | 11 Pages |
| 3 | Delegations General Manager | 10 Pages |

ATTACHMENT 1

ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Draft - Delegations General Manager



Burwood Council

heritage ▪ progress ▪ pride

DRAFT - GENERAL MANAGER'S DELEGATIONS

Suite 1, Level 2, 1-17 Elsie Street, BURWOOD NSW 2134
PO Box 240, BURWOOD NSW 1805
Phone: 9911-9911 - Fax: 9911-9900
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Public Document
Approved by the <General Manager> : <Date>
Trim No.: 13/14204
Version No.: <Version No.>
Ownership: Governance

ATTACHMENT 1

ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Draft - Delegations General Manager

Purpose

To devolve accountability to the General Manager to ensure the uncertainty associated with limit of authority, responsibility and accountability which will improve Council's service through speedier resolution for the organisation and customer needs.

This document outlines what functions are not delegated to the General Manager and thereby the General Manager has delegation to undertake all other functions.

Delegations

The General Manager does not have the delegation to undertake the following in accordance with Section 377 of the *Local Government Act 1993* (the Act):

1. the appointment of a General Manager
2. the making of a rate
3. a determination under Section 549 as to the levying of a rate
4. the making of a charge
5. the fixing of a fee
6. the borrowing of money
7. the voting of money for expenditure on its works, services or operations
8. 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)
9. the acceptance of tenders which are required under this Act to be invited by the Council
10. the adoption of a management plan under Section 406
11. the adoption of a financial statement included in an annual financial report
12. a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6
13. the fixing of an amount or rate for the carrying out by the Council of work on private land
14. 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
15. 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*
16. the power of the Council to authorise the use of reasonable force for the purpose of gaining entry to premises under Section 194
17. a decision under Section 356 to contribute money or otherwise grant financial assistance to persons

ATTACHMENT 1**ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Draft - Delegations General Manager**

18. a decision under Section 234 to grant leave of absence to the holder of a civic office
19. the making of an application, or the giving of a notice, to the Governor or Minister
20. this power of delegation
21. any function under this or any other Act that is expressly required to be exercised by resolution of the Council.

Development Application Delegations

The General Manager can not approve Development Applications where:

1. Petitions and more than four valid planning objections to the development application have been received from separate households and the application has not been refused.
2. Development where there is major variation under State Environmental Planning Policy No. 1 (more than a 10%) from Council's Development Standards or Clause 4.6 of BLEP 2012.
3. Any application specifically required by the Building & Development Committee or Council to be considered at a subsequent Building & Development Committee or Council Meeting.
4. Any matter subject to appeal.
5. Applications having a major environmental impact on the locality and which involve land owned by Council.

With respect to two-storey houses and first floor conversions and additions, authority is delegated to the General Manager to determine applications under the following circumstances:

1. Where the gross floor area of the dwelling exceeds 450m² and the overall floor space ratio exceeds 0.66:1.
2. Where five valid planning objections to the development application have been received from separate households within the notification area.

These matters must be referred to either Council or the Building and Development Committee for determination.

Other Matters**Emergency Management (Local)**

The General Manager can not deploy Council's resources and to incur costs, on Council's behalf, over \$25,000 in the case of an emergency without Council approval.

Writing Off Accounts

The General Manager does not have the delegation to approve the writing off of accounts greater than \$3,000. Write offs are reported to Council on an annual basis.

ATTACHMENT 1

**ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Draft - Delegations General Manager**

Writing Off Stores and Materials

The General does not have the delegation to approve the write on and off stores and materials greater than \$3,000.

ATTACHMENT 2

ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations Guidelines



Burwood Council
heritage ■ progress ■ pride

DELEGATIONS GUIDELINES

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Adopted by Council: 30 June, 2009 (Min No. 141/09)
File: D-10 part 2 S:\Policies\Corporate\Delegations\Delegations-Position Statement
Ownership: Governance

ATTACHMENT 2

ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations Guidelines

Contents

General Power to Delegate	1
Functions of the General Manager	2
Delegations to the General Manager	3
Access to Information	3
Certificates	3
Common Seal - Custody	3
Emergency Management (Local)	3
Execution of documents	3
Infringement Notices	3
Inspections & Investigations	4
Legal proceedings	4
Outdoor Eating Areas	4
Power of Entry - Exercise of Functions Conferred or Imposed on Council under the Local Government Act	4
Power of Entry (Section 191 of the Local Government Act):	4
Regulatory Functions	5
Functions to the General Manager under Chapter 7 of the Local Government Act*	5
Regulatory Functions - Building Matters	5
Seminars/Conferences for staff	6
State Emergency Service	6
Statement of Issues (L & E Court)	6
Tenders	7
Tree Preservation Order	7
Writing off accounts	7
Writing off stores & materials	7
Exercise of Functions Conferred or Imposed on Council under other Acts	7
Section 22 of the Local Government Act 1993 - "Other functions"	7
This section applies to a statutory corporation in addition to, and without limiting the effect of, any provision of the Act by or under which the corporation is constituted.	8
Community Land Development Act 1989	8
Companion Animals Act 1998	8
Environmental Planning and Assessment Act 1979	8
Fines Act 1996	8
Food Act 1989	8
Impounding Act 1993	8
Library Act 1939	8
Police Offences Act 1901	8

ATTACHMENT 2

**ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations Guidelines**

[Council's Rangers are special constables under this Act which provides the power to arrest under the Crimes Act]	8
Protection of the Environment Operations Act 1997	8
Public Health Act 1991	8
Recreation Vehicles Act 1983	9
Roads Act 1993 & Road General Regulation 2000	9
State Emergency Service Act 1989	9
Strata Schemes (Freehold Development) Act 1973	9
Strata Schemes (Leasehold Development) Act 1986	9
Swimming Pools Act 1992	9
Freedom of Information Act 1989 and Privacy & Personal Information Protection Act 1998	9
Heritage Act 1977	9
State Emergency and Rescue Management Act 1989	9
Unclaimed Money Act 1995	9
Power to Sub-delegate (Section 378 of the Local Government Act provides)	9
Role of the Mayor	10
The role of the mayor is:	10
In addition, the Mayor's role after an ordinary election is as follows:	10
Delegations to the Mayor	10
Delegations to Building & Development Committee	10
Building & Development Committee – which meets on the second Tuesday of each month at 6.00 pm.	10
(Function of the Building & Development Committee is to determine any Development Applications and development/building-related issues that cannot be determined by staff under delegated authority). ...	10
Delegations to Community Committees	10
Use of the Common Seal of the Council	11

ATTACHMENT 2

**ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations Guidelines**

General Power to Delegate

Section 377 of the Local Government Act, 1993 provides that Council may, by resolution, delegate to the General Manager or any other person or body (not including another employee of the council) any of the functions of the Council, **other than** the following:

- 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 which are required under this Act to be invited by the council,
- j) the adoption of a management plan under section 406,
- 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) A council may, by resolution, sub-delegate to the general manager or any other person or body (not including another employee of the council) any function delegated to the council by the Director-General except as provided by the instrument of delegation to the council.

ATTACHMENT 2

ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations Guidelines

Functions of the General Manager

Section 335 of the Local Government Act 1993 deals with the functions of the General Manager and provides:

- (1) **[General Responsibilities]** *The General Manager is generally responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation, without undue delay, of decisions of the council.*

- (2) **[Particular functions]** *The General Manager has the following particular functions:*
 - *the day-to-day management of the council*
 - *to exercise such of the functions of the council as are delegated by the Council to the General Manager. Chapter 5 of the Local Government Act recognises that all functions of a Council come from Statute, either the Local Government Act or another Act.*
 - *to appoint staff in accordance with an organisation structure and resources approved by the council*
 - *to direct and dismiss staff*
 - *to implement the council's equal employment opportunity management plan*

- (3) **[Further functions]** *The General Manager has such other functions as may be conferred or imposed on the General Manager by or under this or any other Act.*

Day-to-day management of the Council

The following functions are undertaken by the General Manager as part of the "day-to-day" management of the Council:

- Signing of correspondence.
- Placing advertisements (including public notices, positions vacant notices and other advertisements as required).
- Appointing, directing and dismissing and staff (Section 335(2) of the Local Government Act).
- Managing staff.
- Responding to customer enquiries.
- Signing cheques and authorising payments within budgetary limits.
- Authorising purchases, works and services within budgetary limits.
- Implementing Council decisions.

ATTACHMENT 2

ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations Guidelines

Delegations to the General Manager

Matter	Delegation
Access to Information	Authority to determine applications (including Internal Reviews) under the Freedom of Information Act; Requests for information under Section 12 of the Local Government Act; Applications for access to information under the Privacy & Personal Information Protection Act.
Certificates	<p>Authority to issue Section 149 (Zoning) Certificates;</p> <p>Section 603 Certificates (Amounts due for rates, charges or otherwise in respect of a parcel of land);</p> <p>Section 735A Certificates (Outstanding Notices);</p> <p>Building Certificates (which serve to protect building work covered by the certificate from being the subject of proceedings or of an order to demolish the building or to carry out work to the building because of: anything existing before the date of the certificate; deterioration due solely to fair wear and tear within 7 years after that date; any encroachment of that building onto council land);</p> <p>Certificates of Classification (of any public land under Section 54 of the Local Government Act).</p>
Common Seal - Custody	Clause 48 Local Government (Meetings) Regulation 1993 provides that the Common Seal of Council must be kept by the mayor or the General Manager as the Council determines. Council has previously resolved that the Common Seal be kept in the custody of the General Manager.
Emergency Management (Local)	<p>The Council has delegated authority to the General Manager to appoint a Local Emergency Management Officer and Deputy Local Emergency Management Officer, to carry out Council's responsibilities under the Mid-West Local Disaster Plan within and outside the boundaries of the Council area in the event of an incident or emergency which requires the operation of the Local or District Emergency Management Committee and to deploy Council's resources and to incur costs, on Council's behalf, up to \$25,000 in the case of an emergency.</p> <p>(Note: The Local Emergency Management Officer is Council's Manager Compliance and the Deputy Emergency Management Officer is Council's Director of Technical Services & Operations.)</p>
Execution of documents	Unless Council otherwise resolves, authority is delegated to the General Manager to execute all contracts, agreements, leases, and licences, except for those

ATTACHMENT 2

ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations Guidelines

Matter	Delegation
	contracts, agreements, leases, and licences which would required a resolution of Council under Section 377(1) of the Local Government Act 1993 or where Council has resolved to affix the Common Seal.
Infringement Notices	Authority to determine requests for reconsideration of fines imposed by Infringement Notices.
Inspections & Investigations	<p>Authority to authorise appropriate employees of the Council to exercise functions conferred or imposed on Council under Section 192 of the Local Government Act, as follows:</p> <p>Inspections & Investigations (<i>Section 192 of the Local Government Act:</i> For the purpose of enabling a Council to exercise its functions, a person authorised to enter premises under this Part may:</p> <ul style="list-style-type: none"> (a) Inspect the premises and any food, vehicle, article, matter or thing on the premises; and (b) For the purpose of an inspection: <ul style="list-style-type: none"> i. open any ground and remove any flooring and take such measures as may be necessary to ascertain the character and condition of the premises and of any pipe, sewer, drain, wire or fitting; and ii. require the opening, cutting into or pulling down of any work if the person authorised has reason to believe or suspect that anything on the premises has been done in contravention of this Act or the regulations; and (c) Take measurements, make surveys and take levels and, for those purposes, dig trenches, break up the soil and set up any posts, stakes or marks; and (d) Require any person at those premises to answer questions or otherwise furnish information in relation to the matter the subject of the inspection or investigation; and (e) Examine and test any meter; and (f) Measure a supply of water; and (g) Take samples or photographs in connection with any inspection.

ATTACHMENT 2

ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations Guidelines

Matter	Delegation
Legal proceedings	Authority to institute legal proceedings which Council is authorised by law represent Council at any such legal proceedings or hearings (this authority is subject to the limitation referred to on page 5 of this Position Statement - Functions to the General Manager under Chapter 7 of the Local Government Act*).
Outdoor Eating Areas	Authority to determine applications for outdoor eating areas in accordance with Council's "Outdoor Eating Policy."
Power of Entry - Exercise of Functions Conferred or Imposed on Council under the Local Government Act	<p>Authority to authorise appropriate employees of the Council to exercise functions conferred or imposed on Council under Section 191 of the Local Government Act, as follows:</p> <p>Power of Entry (Section 191 of the Local Government Act):</p> <ol style="list-style-type: none"> 1. For the purpose of enabling a Council to exercise its functions, a Council employee (or other person) authorised by a Council may enter any premises. 2. Entry may only be made at any reasonable hour in the daytime or at any hour during which business is in progress or is usually carried on at the premises.
Regulatory Functions	<p>Section 379 of the Local Government Act deals with the delegation of Council's regulatory functions under Chapter 7. This chapter relates to approvals, orders, adoption of local policies concerning approvals and orders, certificates concerning buildings and appeals.</p> <p>Section 379 provides: A regulatory function of the Council under chapter 7 must not be delegated or sub-delegated to a person or body other than:</p> <ol style="list-style-type: none"> a) Committee of the Council of which all members are Councillors or of which all the members are either Councillors or employees of the Council; or b) an employee of the Council c) a County Council

ATTACHMENT 2

**ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations Guidelines**

Functions to the General Manager under Chapter 7 of the Local Government Act*

The following functions have been delegated to the General Manager under Chapter 7 of the Local Government Act:

Matter	Delegation
Regulatory Functions - Building Matters	<p>To approve or disapprove Construction Certificates which, having regard to the Codes, Policies and practices defined by the Council, the General Manager (via the appropriate sub-delegation) believes could be approved or disapproved without reference to the Building & Development Committee or Council and provided:</p> <ul style="list-style-type: none"> ▪ that any application which he/she approves or refuses under delegated authority shall be referred to the Building & Development Committee if any applicant requests reconsideration of his/her decision under Section 82A of the Environmental Planning & Assessment Act, 1997. <p>To exercise the authority prescribed under the Local Government Act 1993 relating to the granting of an extension or renewal of the period of approval of a Construction Certificate.</p> <p>To issue or refuse certificates under Section 149D of the Environmental Planning & Assessment Act 1979, as amended.</p>
Regulatory Functions – Development Matters	<p>To approve or disapprove all Development Applications (DAs), Subdivisions Applications and Strata Title Subdivision Applications and associated linen plans which, having regard to the Codes, Policies and Practices defined by the Council, the General Manager believes should be approved or disapproved (via the appropriate sub-delegation) without reference to the Building & Development Committee or Council.</p> <p>To determine Development Applications for Brothels & Restricted Premises in accordance with Council's existing Development Control Policies.</p> <p>Applications that must be referred to the Committee are where:</p> <ul style="list-style-type: none"> ▪ Petitions have been received (unless the DA has been refused). ▪ More than four valid planning objections to the development application have been received from separate households within the notification area.

ATTACHMENT 2

**ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations Guidelines**

- There is major variation from Council's Development Standards contained within Environmental Planning Instruments (i.e. BPSO & BTCLEP) (more than 10%)
- The application is specifically required by the Building & Development Committee or Council to be considered at a subsequent Committee Meeting.
- There is a revocation or review of determination by Council of Development Approvals under the EP& A Act and/or the Local Government Act.
- The application involves land owned by Council and will have major impact on the locality.

With respect to two-storey houses and first floor conversions and additions, authority is delegated to the General Manager to determine (via the appropriate delegation) applications under the following circumstances:

1. Where the gross floor area of the dwelling does not exceed 450m² and the overall floor space ratio does not exceed 0.66:1.
2. More than four valid planning objections to the development application have been received from separate households within the notification area.
3. Where two-storey dwellings or second storey additions are proposed on small lots less than 500m² in area, that a floor space ratio of up to 0.55:1 be permitted, proportional to the area of the site decreasing below 500m².

Seminars/Conferences for staff	Authority to approve attendance of staff to conferences, seminars and other appropriate functions and delegation that involves interstate and overseas travel if it is in accordance with Council's budget and Management Plan.
<hr/>	
State Emergency Service	Authority to deal administratively with any matters concerning the State Emergency Services organisation other than those matters for which he/she believes a decision by Council is essential.
<hr/>	
Statement of Issues (L & E Court)	Authority to oversee and settle "Statements of Issues" under appeal before the Land & Environment Court.

ATTACHMENT 2

**ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations Guidelines**

Tenders	Administration of the Local Government (Tendering) Regulation (excluding the acceptance of Tenders which remains with Council).
Tree Preservation Order	Authority to determine applications under Council's Tree Preservation Order.
Writing off accounts	Authority to approve the writing off of accounts to the value not exceeding \$3000.00 where he/she considers it is appropriate, subject to a report being submitted each year detailing the amounts written off.
Writing off stores & materials	Authority to write on and off stores and materials to the value of \$3000.00
Exercise of Functions Conferred or Imposed on Council under other Acts	<p>Section 381 of the Local Government Act deals with functions conferred or imposed on Council under other Acts and states:</p> <ol style="list-style-type: none"> 1. [Employees] If, under any other Act, a function is conferred or imposed on an employee of a Council or on the Mayor or a Councillor of a Council, otherwise than by delegation in accordance with this section, the function is taken to be conferred or imposed on the Council. 2. [Delegation] Such a function may be delegated by the Council in accordance with this Part. 3. [Cannot Delegate] A person must not, under any other Act, delegate a function to: <ul style="list-style-type: none"> ▪ the General Manager, except with the approval of Council ▪ an employee of the Council, except with the approval of the Council and the General Manager <p>Section 22 of the Local Government Act 1993 - "<u>Other functions</u>" A Council has the functions conferred or imposed on it by or under any other Act or law.</p> <p>NOTE: While the main functions of Councils are provided for under the Local Government Act, Councils also have functions under other Acts. An important general provision is contained in section 50 of the Interpretation Act 1987 which provides, in part:</p> <ol style="list-style-type: none"> 1. A statutory corporation: <ol style="list-style-type: none"> (a) has perpetual succession; (b) shall have a seal;

ATTACHMENT 2

**ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations Guidelines**

- (c) may take proceedings and be proceeded against in its corporate name;
- (d) may, for the purpose of enabling it to exercise its functions, purchase, exchange, take on lease, hold, dispose of and otherwise deal with property; and
- (e) may do and suffer all other things that bodies corporate may, by law, do and suffer and that are necessary for, or incidental to, the exercise of its functions.

This section applies to a statutory corporation in addition to, and without limiting the effect of, any provision of the Act by or under which the corporation is constituted.

Functions conferred or imposed on Council under other Acts and Regulations

Authority is delegated to the General Manager to authorise appropriate employees of the Council to carry out functions conferred or imposed on Council under other Acts and Regulations, as follows:

Matter	Delegation
Community Land Development Act 1989	Planning functions as consent authority
Companion Animals Act 1998	Companion animal registration and control - Authorised officers for the purposes of the Act (includes power to issue orders and infringement notices)
Environmental Planning and Assessment Act 1979	Authorised officers for the purposes of the Act (includes power to issue infringement notices)
Environmental Planning & Assessment 1979	Issue of Section 65 Certificate in relation to exhibiting a Draft Local Environmental Plan
Environmental Planning & Assessment 1979	Furnish reports direct to the Minister in relation to a Draft Local Environmental Plans
Environmental Planning & Assessment 1979	Functions conferred or imposed on the Director-General of DIPNR under SEPP No. 1 – Development Standards
Fines Act 1996	Power to issue infringement notices
Food Act 2003	Inspection of food and food premises - Authorised officers for the purposes of the Act (included power to issue orders and power of entry)
Impounding Act 1993	Impounding of animals and articles - Authorised officers for the purposes of the Act (includes power to issue infringement notices)

ATTACHMENT 2

**ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations Guidelines**

Matter	Delegation
Library Act 1939	Regulates library services
Police Offences Act 1901 [Council's Rangers are special constables under this Act which provides the power to arrest under the Crimes Act]	Prescribed officer. This powers deal with issuing infringement notices.
Protection of the Environment Operations Act 1997	Pollution control - Authorised officers for the purposes of the Act (includes power of entry and power to issue infringement notices)
Public Health Act 1991	Inspection of systems for purposes of microbial control - Authorised officers for the purposes of the Act (included power to issue orders and power of entry)
Recreation Vehicles Act 1983	Restricting use of recreation vehicles
Roads Act 1993 & Road General Regulation 2000	Authorised officers for the purposes of the Act (includes power of entry and power to issue of infringement notices)
State Emergency Service Act 1989	Recommending appointment of local controller
Strata Schemes (Freehold Development) Act 1973	Approval of strata plans
Strata Schemes (Leasehold Development) Act 1986	Approval of leasehold strata plans
Swimming Pools Act 1992	Ensuring restriction of access to swimming pools
Freedom of Information Act 1989 and Privacy & Personal Information Protection Act 1998	Council is required to publish certain information, to grant access to certain documents and to amend certain records that are shown to be incomplete, incorrect, out of date or misleading.
Heritage Act 1977	Rating based on heritage valuation
State Emergency and Rescue Management Act 1989	Council required to prepare for emergencies
Unclaimed Money Act 1995	Unclaimed money to be paid to the Chief Commissioner of Unclaimed Money.

ATTACHMENT 2

ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations Guidelines

[Power to Sub-delegate \(Section 378 of the Local Government Act provides\)](#)

- (1) ***[Power of Delegation]** The General Manager may delegate any of the functions of the General Manager, other than this power of delegation.*
- (2) ***[Sub-delegation]** The General Manager may sub-delegate a function delegated to the General Manager by the Council to any person or body (including another employee of the council).*

The General Manager's sub-delegations in accordance with Section 378 of the Local Government Act, have been separately documented - see "*Sub-Delegations by General Manager*" [to be found in Council's Policy Register at; corporate\policies\corporate\sub-delegations]. The General Manager's sub-delegations are reviewed (by the General Manager) on a regular basis.

ATTACHMENT 2

**ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations Guidelines**

Role of the Mayor

Section 226 of the Local Government Act 1993 deals with the functions of the Mayor and provides:

The role of the mayor is:

- to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council;
- to exercise such other functions of the council as the council determines;
- to preside at meetings of the council;
- to carry out the civic and ceremonial functions of the mayoral office.

In addition, the Mayor's role after an ordinary election is as follows:

- A mayor elected by the Councillors continues to exercise the mayoral functions set out in Section 226 of the Act after the day of the ordinary election until a successor is declared to be elected, even if the mayor is not re-elected as a Councillor. However it is expected that such functions are exercised only in a caretaker capacity.

Delegations to the Mayor

In the event of an incident or emergency that requires the operation of the Local or District Emergency Management Committee, to approve additional expenditure to the amount of \$25,000 over the limit imposed on the Local Emergency Management Officer.

Delegations to Building & Development Committee

Council, through its Code of Meeting Practice, has implemented a Committee structure that consists of one (1) Committee with delegated authority (under Section 355 of the Local Government Act 1993) to determine matters listed on its agendas, except those matters that the Council has no power to delegate under Section 377 of the Local Government Act. The Committee is:

Building & Development Committee – which meets on the second Tuesday of each month at 6.00 pm. (Function of the Building & Development Committee is to determine any Development Applications and development/building-related issues that cannot be determined by staff under delegated authority). All Councillors are members of the Committee and a quorum is four (4).

Delegations to Community Committees

The following community committees are considered to be Advisory Committees to Council and, as such, have no delegated authority:

- Burwood Access Committee
- Burwood Community Safety Committee
- Burwood Local Traffic Committee

ATTACHMENT 2

**ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations Guidelines**

- Burwood Environment & Sustainability Committee
- Multicultural and Community Relations Advisory Committee
- National Servicemen's Association Committee
- Sandakan Community Education Committee

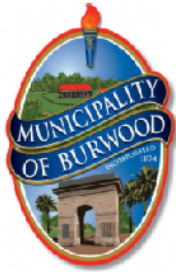
Use of the Common Seal of the Council

Regulation No. 400 of the Local Government Act 1993 deals with the Council Seal and provides that:

- (1) The seal of a council must be kept by the mayor or the general manager, as the council determines.
- (2) The seal of a council may be affixed to a document only in the presence of:
 - (a) the mayor and the general manager, or
 - (b) at least one councillor (other than the mayor) and the general manager, or
 - (c) the mayor and at least one other councillor, or
 - (d) at least 2 councillors other than the mayor.
- (3) The affixing of a council sea to a document has no effect unless the persons who were present when the http://www.austlii.edu.au/cgi-bin/disp.pl/au/legis/nsw/consol_reg/lgr2005328/s400.html?query=Council%20Seal-disp5#disp5 seal was affixed (being persons referred to in subclause (2)) attest by their signatures that the http://www.austlii.edu.au/cgi-bin/disp.pl/au/legis/nsw/consol_reg/lgr2005328/s400.html?query=Council%20Seal-disp6#disp6 seal was affixed in their presence.
- (4) The seal of a council must not be affixed to a document unless the document relates to the business of the council and the council has resolved (*by resolution specifically referring to the document*) that the http://www.austlii.edu.au/cgi-bin/disp.pl/au/legis/nsw/consol_reg/lgr2005328/s400.html?query=Council%20Seal-disp9#disp9 seal be so affixed.

ATTACHMENT 3

ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations General Manager



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DELEGATIONS – GENERAL MANAGER

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Adopted by Council: 30 June, 2009 (Min No. 141/09)
Amended by Council: 27 April 2010 (Min No. 61/10)
File: D-10 part 2 ::ODMA\TRIM6\PR\531115
Ownership: Governance

ATTACHMENT 3

ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC Delegations General Manager

CONTENTS

General Power to Delegate	1
Functions of the General Manager	2
Exercise of Functions Conferred or Imposed on Council under the Local Government Act	4
<i>Power of Entry (Section 191 of the Local Government Act):</i>	4
Exercise of Functions Conferred or Imposed on Council under other Acts	5
SECTION 22 OF THE LOCAL GOVERNMENT ACT 1993	6
Regulatory Functions	8
Burwood Town Centre Planning Panel	10

ATTACHMENT 3

ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations General Manager

General Power to Delegate

Section 377 of the Local Government Act, 1993 provides that Council may, by resolution, delegate to the General Manager or any other person or body (not including another employee of the council) any of the functions of the Council, **other than** the following:

- 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 which are required under this Act to be invited by the council,
- j) the adoption of a management plan under section 406,
- 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) A council may, by resolution, sub-delegate to the general manager or any other person or body (not including another employee of the council) any function delegated to the council by the Director-General except as provided by the instrument of delegation to the council.

ATTACHMENT 3

**ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations General Manager**

Functions of the General Manager

Section 335 of the Local Government Act 1993 deals with the functions of the General Manager and provides:

- (1) **[General Responsibilities]** *The General Manager is generally responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation, without undue delay, of decisions of the council.*

- (2) **[Particular functions]** *The General Manager has the following particular functions:*
 - *the day-to-day management of the council*
 - *to exercise such of the functions of the council as are delegated by the Council to the General Manager. Chapter 5 of the Local Government Act recognises that all functions of a Council come from Statute, either the Local Government Act or another Act.*
 - *to appoint staff in accordance with an organisation structure and resources approved by the council*
 - *to direct and dismiss staff*
 - *to implement the council's equal employment opportunity management plan*

- (3) **[Further functions]** *The General Manager has such other functions as may be conferred or imposed on the General Manager by or under this or any other Act.*

Day-to-day management of the Council

The following functions are undertaken by the General Manager as part of the "day-to-day" management of the Council:

- Signing of correspondence.

- Placing advertisements (including public notices, positions vacant notices and other advertisements as required).

- Appointing, directing and dismissing and staff (Section 335(2) of the Local Government Act).

- Managing staff.

- Responding to customer enquiries.

ATTACHMENT 3

**ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations General Manager**

- Signing cheques and authorising payments within budgetary limits.
- Authorising purchases, works and services within budgetary limits.
- Implementing Council decisions.

Delegations:

- Authority to approve the writing off of accounts to the value not exceeding \$3000.00 where he/she considers it is appropriate, subject to a report being submitted each year detailing the amounts written off.
- Authority to commit expenditure to the limit of the Tender threshold in accordance with Section 55 of the Local Government Act and Local Government (Tendering) Regulations.
- Authority to determine requests for reconsideration of fines imposed by Infringement Notices.
- Authority to deal administratively with any matters concerning the State Emergency Services organisation other than those matters for which he/she believes a decision by Council is essential.
- Authority to write on and off stores and materials to the value of \$3000.00
- Authority to determine applications for outdoor eating areas in accordance with Council's "Outdoor Eating Policy."
- Authority to institute legal proceedings which Council is authorised by law to place and to represent Council at any such legal proceedings or hearings (this authority is subject to the limitation referred to on page 5 of this Delegations Guidelines*).
- Authority to oversee and settle "Statements of Issues" under appeal before the Land & Environment Court.
- Authority to approve attendance of staff to conferences, seminars and other appropriate functions and delegation that involves interstate and overseas travel if it is in accordance with Council's budget and Management Plan.
- Clause 48 Local Government (Meetings) Regulation 1993 provides that the seal of Council must be kept by the mayor or the General Manager as the Council determines. Council has previously resolved that the seal be kept in the custody of the General Manager.
- Authority to issue Section 149 (Zoning) Certificates.
- Section 603 Certificates (Amounts due for rates, charges or otherwise in respect of a parcel of land).
- Section 735A Certificates (Outstanding Notices).
- Building Certificates (which serve to protect building work covered by the certificate from being the subject of proceedings or of an order to demolish the building or to carry out work to the building because of: anything existing before the date of the certificate; deterioration due solely to fair wear and tear within 7 years after that date; any encroachment of that building onto council land).

ATTACHMENT 3

ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations General Manager

- Authority to determine applications under the Freedom of Information Act.
- Requests for information under Section 12 of the Local Government Act.
- Applications for access to information under the Privacy & Personal Information Protection Act.
- Authority to determine applications under Council's Tree Preservation Order.
- Authority to issue Certificates of Classification (of any public land under Section 54 of the Local Government Act).
- Administration of the Local Government (Tendering) Regulation (excluding the acceptance of Tenders which remains with Council).
- Authority accepting grants on behalf of Council from agencies and other levels of Government and authority to sign and produce reports in relation to those grants.

Section 378 of the Local Government Act provides:

- (1) **[Power of Delegation]** *The General Manager may delegate any of the functions of the General Manager, other than this power of delegation.*
- (2) **[Sub-delegation]** *The General Manager may sub-delegate a function delegated to the General Manager by the Council to any person or body (including another employee of the council).*

The General Manager's sub-delegations in accordance with Section 378 of the Local Government Act, have been separately documented - see "Sub-Delegations by General Manager" [to be found in Council's Policy Register at; corporate\policies\corporate\subdelegations]. The General Manager's sub-delegations are reviewed (by the General Manager) on a regular basis.

Exercise of Functions Conferred or Imposed on Council under the Local Government Act

Authority is delegated to the General Manager to authorise appropriate employees of the Council to carry out functions conferred or imposed on Council under the Local Government Act and Regulations, as follows:

Power of Entry (Section 191 of the Local Government Act):

- (1) *For the purpose of enabling a Council to exercise its functions, a Council employee (or other person) authorised by a Council may enter any premises.*
- (2) *Entry may only be made at any reasonable hour in the daytime or at any hour during which business is in progress or is usually carried on at the premises.*

ATTACHMENT 3

ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC Delegations General Manager
Inspections and investigations (Section 192 of the Local Government Act):

For the purpose of enabling a council to exercise its functions, a person authorised to enter premises under this Part may:

- (a) inspect the premises and any food, vehicle, article, matter or thing on the premises; and (b) for the purpose of an inspection:
 - (i) open any ground and remove any flooring and take such measures as may be necessary to ascertain the character and condition of the premises and of any pipe, sewer, drain, wire or fitting; and
 - (ii) require the opening, cutting into or pulling down of any work if the person authorised has reason to believe or suspect that anything on the premises has been done in contravention of this Act or the regulations; and
- (c) take measurements, make surveys and take levels and, for those purposes, dig trenches, break up the soil and set up any posts, stakes or marks; and
- (d) require any person at those premises to answer questions or otherwise furnish information in relation to the matter the subject of the inspection or investigation; and
- (e) examine and test any meter; and
- (f) measure a supply of water; and
- (g) take samples or photographs in connection with any inspection.

Exercise of Functions Conferred or Imposed on Council under other Acts

Section 381 of the Local Government Act deals with functions conferred or imposed on Council under other Acts and states:

- (1) **[Employees]** If, under any other Act, a function is conferred or imposed on an employee of a Council or on the Mayor or a Councillor of a Council, otherwise than by delegation in accordance with this section, the function is taken to be conferred or imposed on the Council.
- (2) **[Delegation]** Such a function may be delegated by the Council in accordance with this Part.
- (3) **[Cannot Delegate]** A person must not, under any other Act, delegate a function to:
 - the General Manager, except with the approval of Council
 - an employee of the Council, except with the approval of the Council and the General Manager

The other Acts under which functions are conferred or imposed on Council are recognised at Section 22 of the Local government Act.

ATTACHMENT 3

**ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations General Manager**

Authority is delegated to the General Manager to authorise appropriate employees of the Council to carry out functions conferred or imposed on Council under other Acts and Regulations, as follows:

SECTION 22 OF THE LOCAL GOVERNMENT ACT 1993

"Other functions"

A council has the functions conferred or imposed on it by or under any other Act or law.

NOTE: While the main functions of councils are provided for under this Act, councils also have functions under other Acts. An important general provision is contained in section 50 of the Interpretation Act 1987 which provides, in part:

1. A statutory corporation:
 - (a) has perpetual succession;
 - (b) shall have a seal;
 - (c) may take proceedings and be proceeded against in its corporate name;
 - (d) may, for the purpose of enabling it to exercise its functions, purchase, exchange, take on lease, hold, dispose of and otherwise deal with property; and
 - (e) may do and suffer all other things that bodies corporate may, by law, do and suffer and that are necessary for, or incidental to, the exercise of its functions ...

2. This section applies to a statutory corporation in addition to, and without limiting the effect of, any provision of the Act by or under which the corporation is constituted.

Some other Acts and some of the functions they confer include:

ACT	FUNCTIONS
<i>Community Land Development Act 1989</i>	planning functions as consent authority
<i>Companion Animals Act 1998</i>	companion animal registration and control
<i>Conveyancing Act 1919</i>	placing covenants on council land
<i>Environmental Planning and Assessment Act 1979</i>	environmental planning
<i>Fire Brigades Act 1989</i>	payment of contributions to fire brigade costs and furnishing of returns
<i>Food Act 2003</i>	inspection of food and food premises
<i>Impounding Act 1993</i>	impounding of animals and articles

ATTACHMENT 3

**ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations General Manager**

<i>Library Act 1939</i>	library services
<i>Protection of the Environment Operations Act 1997</i>	pollution control
<i>Public Health Act 1991</i>	inspection of systems for purposes of microbial control
<i>Recreation Vehicles Act 1983</i>	restricting use of recreation vehicles
<i>Roads Act 1993</i>	roads
<i>Rural Fires Act 1997</i>	issue of permits to light fires during bush fire danger periods requiring the furnishing of information to the Rural Fire Service Advisory Council and its Co-ordinating Committee
<i>State Emergency Service Act 1989</i>	recommending appointment of local controller
<i>Strata Schemes (Freehold Development) Act 1973</i>	approval of strata plans
<i>Strata Schemes (Leasehold Development) Act 1986</i>	approval of leasehold strata plans
<i>Swimming Pools Act 1992</i>	ensuring restriction of access to swimming pools

The exercise by a council of its functions under this Act may also be modified by the provisions of another Act. Some of those Acts and some of the modifications they effect include:

ACT	FUNCTIONS
<i>Coastal Protection Act 1979</i>	limitation on coastal development by councils
<i>Environmental Offences and Penalties Act 1989</i>	forfeiture of council functions to person appointed by Governor
<i>Freedom of Information Act 1989</i>	council required to publish certain information, to grant access to certain documents and to amend certain records that are shown to be incomplete, incorrect, out of date or misleading
<i>Heritage Act 1977</i>	rating based on heritage valuation
<i>State Emergency and Rescue Management Act 1989</i>	council required to prepare for emergencies
<i>Unclaimed Money Act 1995</i>	unclaimed money to be paid to the Chief Commissioner of Unclaimed Money

ATTACHMENT 3**ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations General Manager**

Powers of Entry

Authority is delegated to the General Manager to authorise appropriate employees of the Council to carry out functions conferred or imposed on Council under other Acts and Regulations, as follows:

To enter upon any land and building within the Burwood Council area at all reasonable hours in the daytime and at any hour during which business is in progress or is usually carried on in the premises and to make inspections in or upon any land or building for the purposes of and subject to the provisions of Section 118A of the Environmental Planning and Assessment Act, 1979, as amended.

To enter in or upon any land or building at any reasonable hour within the Burwood Council area and to make inspections in or upon any land or building and to inspect any article, utensil and material therein or thereon, and to obtain for analysis or examination samples or any food, and to seize any food, appliance, package, or labelling or advertising material, and for any or all of such purposes to open any ground and remove any flooring and take all such measures as deemed necessary, under the provisions of Legislation listed hereunder:

- Public Health Act 1991
- Food Act 1989
- Swimming Pools Act 1992
- Protection of the Environment Operations Act 1997
- Noxious Weeds Act 1993
- Companion Animals Act 1998
- Roads Act 1993

Regulatory Functions

Section 379 of the Local Government Act deals with the delegation of Council's regulatory functions under Chapter 7*. This chapter relates to approvals, orders, adoption of local policies concerning approvals and orders, certificates concerning buildings and appeals.

Section 379 provides:

A regulatory function of the Council under chapter 7 must not be delegated or sub-delegated to a person or body other than:

- (a) *a Committee of the Council of which all members are Councillors or of which all the members are either Councillors or employees of the Council; or*
- (b) *an employee of the Council*
- (c) *a County Council*

ATTACHMENT 3

ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations General Manager

The following functions have been delegated to the General Manager under Chapter 7 of the Local Government Act:

1.1 Development Matters

To approve or disapprove all Development Applications (DAs), Subdivisions Applications and Strata Title Subdivision Applications and associated linen plans which, having regard to the Codes, Policies and Practices defined by the Council, the General Manager believes should be approved or disapproved (via the appropriate sub-delegation) without reference to the Building & Development Committee or Council.

To determine Development Applications for Brothels & Restricted Premises in accordance with Council's existing Development Control Policies.

Applications that must be referred to the Committee are where:

- Petitions have been received (unless the DA has been refused).
- More than four valid planning objections to the development application have been received from separate households within the notification area.
- There is major variation from Council's Development Standards contained within Environmental Planning Instruments (i.e. BPSO & BTCLEP) (more than 10%)
- The application is specifically required by the Building & Development Committee or Council to be considered at a subsequent Committee Meeting.
- There is a revocation or review of determination by Council of Development Approvals under the EP& A Act and/or the Local Government Act.
- The application involves land owned by Council and will have major impact on the locality.

With respect to two-storey houses and first floor conversions and additions, authority is delegated to the General Manager to determine (via the appropriate delegation) applications under the following circumstances:

1. Where the gross floor area of the dwelling does not exceed 450m² and the overall floor space ratio does not exceed 0.66:1.
2. More than four valid planning objections to the development application have been received from separate households within the notification area.
3. Where two-storey dwellings or second storey additions are proposed on small lots less than 500m² in area, that a floor space ratio of up to 0.55:1 be permitted, proportional to the area of the site decreasing below 500m².

ATTACHMENT 3

ITEM 66/13 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993.DOC
Delegations General Manager

1.2 Building Matters

To approve or disapprove Construction Certificates which, having regard to the Codes, Policies and practices defined by the Council, the General Manager (via the appropriate sub-delegation) believes could be approved or disapproved without reference to the Building & Development Committee or Council and provided:

that any application which he/she approves or refuses under delegated authority shall be referred to the Building & Development Committee/Council if any applicant requests reconsideration of his/her decision under Section 82A of the Environmental Planning & Assessment Act, 1997.

To exercise the authority prescribed under the Local Government Act 1993 relating to the granting of an extension or renewal of the period of approval of a Construction Certificate.

To issue or refuse certificates under Section 149D of the Environmental Planning & Assessment Act 1979, as amended.

Burwood Town Centre Planning Panel Delegation of Authority

Council resolved on the 16 October 2007 Minute No. 162/07 that:

That Council delegate to the General Manager all functions necessary to provide the level of administrative assistance, support and direction the Panel in order for Council to comply with the Minister's direction that Council "provide all necessary staff, facilities and documents to enable the Panel to effectively undertake its functions".

Legal Assistance – Local Government Association

Council resolved on the 27 April 2010 Minute NO. 60/10 that:

That Council delegate authority to the General Manager to approve requests for legal assistance to Councils as submitted by the Local Government Association from time to time in accordance with their Legal Assistance Policy, provided that the litigious matters are relevant to Burwood Council and funds are available in the budget.



Burwood Council
heritage ▪ progress ▪ pride

BURWOOD COUNCIL MEETING

MINUTES OF THE MEETING OF THE COUNCIL OF BURWOOD held at the Council Chamber, Suite 1, Level 2, 1-17 Elsie Street, Burwood on Monday 23 March 2015 commencing at 6.08pm.

ATTENDANCE

Councillor Sally Deans
Councillor Tony Doueihi
Councillor John Faker (Mayor)
Councillor Lesley Furneaux-Cook
Councillor George Mannah (Deputy Mayor)
Councillor Justin Taunton
Councillor Ernest Wong

Mr M McMahon, General Manager
Mr I McCallum, Deputy General Manager Corporate, Governance and Community
Mr B Macdonnell, Deputy General Manager Land, Infrastructure and Environment
Mr T Briscese, Executive Manager
Mr W Armitage, Chief Finance Officer
Mr B Mortimer, Manager Organisation Development
Mr D Luo, Manager Strategic Planning
Mr J Inglese, Senior Manager Assets and Design
Mr H Gavrilis, Manager Environment and Health
Ms P Viney, Governance Co-ordinator

ACKNOWLEDGEMENT OF COUNTRY

OPENING OF MEETING BY THE MAYOR

The Mayor opened the meeting with a prayer.

OPEN FORUM

Name	Item
Mr Teik Lee 26/3 Railway Pde Burwood 2134	Alleged Noise Pollution

APOLOGIES

That there were no apologies.

DECLARATIONS OF INTEREST

Councillor Faker declared a conflict interest on Item 16/15 Investigate Planning Controls for Precinct Bounded by the railway line, Boundary, Webb and Young Streets, Croydon as his cousin lives in the precinct.

Councillor Faker declared a conflict interest on Item 30/15 Potential Heritage Item Under Treat -

MINUTES OF BURWOOD COUNCIL MEETINGS

23 MARCH 2015

No. 100 Lucas Road, Burwood as he lives in the street.

Councillor Wong declared a less than significant pecuniary interest Item 30/15 Potential Heritage Item Under Treat - No. 100 Lucas Road, Burwood as in a house at the end of the road.

DECLARATIONS OF POLITICAL INTEREST

There were no declarations of political interests by Councillors.

CONFIRMATION OF MINUTES

24/15 That the minutes of the meeting of the Council of Burwood held on Monday, 23 February 2015 and the meeting of the Building and Development Committee Meeting held on Monday 9, March 2015, as circulated, be confirmed and signed as a true record of the proceeding of the meeting.

(Moved Councillor Lesley Furneaux-Cook/Seconded Councillor Tony Doueih)

ADDRESS BY THE PUBLIC ON AGENDA ITEMS

Name	Item
Mr Nat Taylor 5 Albert Cres Croydon	Item 16/15 Investigate Planning Controls for Precinct Bounded by the railway line, Boundary, Webb and Young Streets, Croydon
Ms Margo Delaney 7/16-20 Grosvenor St Croydon	Item 16/15 Investigate Planning Controls for Precinct Bounded by the railway line, Boundary, Webb and Young Streets, Croydon
Mr Alan Roberts 26 Malvern Ave Croydon	Item 16/15 Investigate Planning Controls for Precinct Bounded by the railway line, Boundary, Webb and Young Streets, Croydon
Mr David Wang 18/20 Grosvenor St Croydon	Item 16/15 Investigate Planning Controls for Precinct Bounded by the railway line, Boundary, Webb and Young Streets, Croydon
Ms Cecily Gray 15 Hammond Ave Croydon	Item 30/15 Potential Heritage Item Under Treat - No. 100 Lucas Road, Burwood

MATTER OF URGENCY

25/15 ITEM 30/15 POTENTIAL HERITAGE ITEM UNDER THREAT – NO. 100 LUCAS ROAD, CROYDON BE CONSIDER AS A MATTER OF URGENCY

(Moved Deputy Mayor George Mannah/Seconded Councillor Sally Deans)

COUNCILLOR JOHN FAKER LEFT THE MEETING AT 6:15 PM

THE DEPUTY MAYOR CR MANNAH TOOK THE CHAIR 6.15PM

GENERAL BUSINESS**(ITEM 16/15) INVESTIGATE PLANNING CONTROLS FOR PRECINCT BOUNDED BY THE RAILWAY LINE, BOUNDARY STREET, WEBB STREET AND YOUNG STREET CROYDON**

File No: 15/5531

Summary

Council Officers have investigated the planning controls for the precinct bounded by the railway line, Boundary Street, Webb Street and Young Street, Croydon. The investigation concludes that it is unlikely that a Planning Proposal (PP) to reduce the building height and floor space ratio (FSR) standards for the precinct would be supported by the State Government and pass through the Gateway. As such, it is recommended that the preparation of a PP not be proceeded with.

26/15 RESOLVED

That Council defer the item for a Councillor workshop.

(Moved Councillor Tony Doueihy/Seconded Councillor Ernest Wong)

Councillors Tony Doueihy and Ernest Wong called for a **DIVISION**.

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Wong	Councillor Furneaux-Cook
Councillor Deans	
Councillor Mannah	
Councillor Taunton	
Councillor Doueihy	
Total (5)	Total (1)

(ITEM 30/15) POTENTIAL HERITAGE ITEM UNDER THREAT - NO. 100 LUCAS ROAD, BURWOOD

File No: 15/9959

Summary

The property at No. 100 Lucas Road, Burwood has been identified within a submission as having potential heritage significance. The Mayor has also been contacted by another resident concerned over the building risk. The building is at risk of demolition on account of a Development Application (DA) currently under Council's assessment. Council may determine to enact the procedure that was adopted by Council on 25 May 2010 for dealing with potential heritage items under threat.

MINUTES OF BURWOOD COUNCIL MEETINGS

23 MARCH 2015

27/15 RESOLVED (unanimously)

1. That Council enact the procedure that was adopted by Council, at its Meeting on 25 May 2010, for dealing with potential heritage items under threat.
2. That Council engage a heritage consultant to undertake a preliminary heritage investigation.
3. That the findings of the investigation be reported back to Council.
4. That the applicant of DA 193/2014 be encouraged to investigate the retention of the existing house as part of their development proposal.
5. That further consideration of DA 193/2014 be held in abeyance pending Council's consideration of this matter.

(Moved Councillor Justin Taunton/Seconded Councillor Ernest Wong)

Councillors Ernest Wong and Justin Taunton called for a **DIVISION**.The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Wong	
Councillor Furneaux-Cook	
Councillor Deans	
Councillor Mannah	
Councillor Taunton	
Councillor Doueihy	
Total (6)	Total (0)

COUNCILLOR TONY DOUEIHI RETURNED TO THE MEETING AT 6:51 PM**COUNCILLOR TONY DOUEIHI LEFT THE MEETING AT 6:48 PM****COUNCILLOR JOHN FAKER RETURNED TO THE MEETING AND RESUMED THE CHAIR AT 6:54 PM**

(ITEM 17/15) RESULTS FOLLOWING CONSULTATION - STANLEY STREET DRAINAGE RESERVE – SAFETY UPGRADES, PROPOSED FACILITIES IMPROVEMENTS AND PROPOSED RENAMING OF THE RESERVE TO BARBARA HOLBOROW RESERVE

File No: 15/8136

Summary

At the Council Meeting of 24 November 2014, a report was prepared for Council to consider safety improvements, new community facilities and the renaming of the Stanley Street Drainage Reserve to 'Barbara Holborow Reserve'. It was resolved that the General Manager undertake a community consultation process with residents in the immediate area bounded by Stanley, Rawson, Tangarra Streets and Georges River Road, Croydon Park, to gauge community comment on the proposal.

28/15 RESOLVED (unanimously)

1. That Council approve the construction of a walking track/shared path as per the

This is page 4 of the Minutes of the Ordinary Meeting of Burwood Council held on 23 March 2015

MINUTES OF BURWOOD COUNCIL MEETINGS**23 MARCH 2015**

Concept Plan (Attachment 1).

2. That Council approve construction stage 1 and 2 to be undertaken in the 14/15 financial year at a cost of \$40,000. With Stage 3 to be completed subject to a successful grant application in the 2015/16 financial year.
3. That Council hold a dedication ceremony for the re-naming of the reserve to 'Barbara Holborow Reserve' once all improvements are completed.

(Moved Councillor Lesley Furneaux-Cook/Seconded Councillor Ernest Wong)

(ITEM 18/15) NIGHT PATROLS FOR PARKING ENFORCEMENT

File No: 15/2512

Summary

This report provides Council with information regarding a review of night patrols for parking enforcement in the Burwood CBD during December 2014 and January 2015.

29/15 RESOLVED (*unanimously*)

1. That Council adopt night patrols for parking enforcement in the Burwood CBD to be scheduled randomly based on the discretion of the General Manager.
2. That the Mayor write to the Local Area Commander regarding the amount of cars speeding in the Burwood Town Centre.

(Moved Councillor Sally Deans/Seconded Deputy Mayor George Mannah)

(ITEM 19/15) ADOPTION OF THE GENERIC PLAN OF MANAGEMENT - PARKS

File No: 15/5365

Summary

Following the public exhibition and after considering comments received from the community the final Generic Plan of Management – Parks is submitted to Council for formal adoption.

30/15 RESOLVED (*unanimously*)

1. That Council adopt the Generic Plan of Management – Parks and the Landscape Public Road Register and note all previous relevant Plans of Management are superseded.
2. That Council approves Wyatt Avenue Park being reclassified from Operational Land to Community Land and categorised as Park.

(Moved Deputy Mayor George Mannah/Seconded Councillor Lesley Furneaux-Cook)

MINUTES OF BURWOOD COUNCIL MEETINGS**23 MARCH 2015****(ITEM 20/15) INVESTMENT REPORT AS AT 28 FEBRUARY 2015**

File No: 15/7800

Summary

In accordance with Clause 212 of the *Local Government (General) Regulation 2005*, this report details all money that Council has invested under Section 625 of the *Local Government Act 1993*.

31/15 RESOLVED (unanimously)

1. That the investment report for 28 February 2015 be received and endorsed.
2. That the Certificate of the Responsible Accounting Officer be received and noted.

(Moved Councillor Tony Doueihy/Seconded Deputy Mayor George Mannah)

(ITEM 21/15) ENDORSEMENT - DRAFT COMPLIANCE AND ENFORCEMENT POLICY

File No: 15/7792

Summary

This report seeks Council's adoption of the draft – Compliance and Enforcement Policy.

32/15 RESOLVED (unanimously)

That Council adopt the draft Compliance and Enforcement Policy.

(Moved Councillor Tony Doueihy/Seconded Councillor Lesley Furneaux-Cook)

(ITEM 22/15) ENDORSEMENT - DRAFT BURWOOD CITY SAFE PROGRAM - CODE OF PRACTICE

File No: 15/7808

Summary

This report seeks Council's adoption of the draft Burwood City Safe Program – Code of Practice for the management of Closed Circuit Television (CCTV) in public domain areas in the Burwood Local Government Area.

33/15 RESOLVED (unanimously)

That Council adopt the draft Burwood City Safe Program – Code of Practice.

(Moved Councillor Lesley Furneaux-Cook/Seconded Deputy Mayor George Mannah)

MINUTES OF BURWOOD COUNCIL MEETINGS

23 MARCH 2015

(ITEM 23/15) ENDORSEMENT - DRAFT WASTE POLICY - LOCAL APPROVALS POLICY FOR MANAGING WASTE IN PUBLIC PLACES

File No: 15/8204

Summary

The Waste Policy is a new Policy which provides information as to the waste and recycling services provided by the Council and advises of the responsibilities of the Council, residents and commercial premises in relation to the management of waste.

34/15 RESOLVED (unanimously)

That Council endorse the Draft Waste Policy - Local Approvals Policy and advertise the Policy for comment in accordance with the requirements of the *Local Government Act 1993*.

(Moved Councillor Justin Taunton/Seconded Councillor Lesley Furneaux-Cook)

(ITEM 24/15) ADOPTION - DRAFT - OUT OF POCKET EXPENSES POLICY

File No: 15/5217

Summary

To seek Council's approval of the draft – Out of Pocket Expenses Policy which has been reviewed in line with Council's practice of reviewing all policies every four years.

35/15 RESOLVED (unanimously)

That Council adopt the draft – Out of Pocket Expenses Policy.

(Moved Councillor Lesley Furneaux-Cook/Seconded Councillor Justin Taunton)

(ITEM 25/15) ADOPTION - PUBLIC INTEREST ACT 1994 - INTERNAL REPORTING POLICY

File No: 15/5218

Summary

The Public Interest Disclosures Policy was last reviewed in line with the Model Internal Reporting Policy for Local Government in 2013 and the Recommendations from the ICAC Report. The Policy was adopted by Council on 17 February 2014.

The *Public Interest Disclosures Act 1994* – draft Internal Reporting Policy has been reviewed to include additional Council documents and some minor editorial changes.

36/15 RESOLVED (unanimously)

That Council adopt the *Public Interest Disclosures Act 1994* – draft Internal Reporting Policy.

(Moved Councillor Tony Doueih/Seconded Councillor Lesley Furneaux-Cook)

MINUTES OF BURWOOD COUNCIL MEETINGS

23 MARCH 2015

(ITEM 26/15) ADOPTION - PUBLIC INTEREST ACT 1994 - DRAFT PROCEDURE FOR ASSESSING DISCLOSURES AND INVESTIGATIONS

File No: 15/5232

Summary

The *Public Interest Disclosures Act 1994* – draft Procedure for Assessing Disclosures and Investigations has been reviewed to include additional Council documents and some minor editorial changes. The document is submitted to Council for adoption.

37/15 RESOLVED (unanimously)

That Council adopt the *Public Interest Disclosures Act 1994* – draft Procedure for Assessing Disclosures and Investigations.

(Moved Councillor Lesley Furneaux-Cook/Seconded Councillor Sally Deans)

(ITEM 27/15) ENDORSEMENT - DRAFT AGENCY INFORMATION GUIDE - GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009

File No: 15/348

Summary

Council's Agency Information Guide – *Government Information (Public Access) Act 2009* has been reviewed in accordance with the Information and Privacy Commissioner (IPC) guidance and the *Government Information (Public Access) Act 2009* (GIPA). The Agency Information Guide is now submitted for endorsement.

38/15 RESOLVED (unanimously)

That Council endorse the draft - Agency Information Guide in line with the requirements of the *Government Public Access Information Act 2009*.

(Moved Councillor Sally Deans/Seconded Councillor Lesley Furneaux-Cook)

(ITEM 28/15) REVIEW OF THE GENERAL MANAGER'S DELEGATIONS

File No: 15/8699

Summary

To seek Council's review and approval of the General Manager's Delegations.

39/15 RESOLVED (unanimously)

That Council endorses the General Manager's Delegations in accordance with Section 377 (2) of the *Local Government Act 1993*.

(Moved Councillor Sally Deans/Seconded Councillor Tony Doueih)

(ITEM 29/15) NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT 2015

File No: 15/8338

Summary

This report is to inform Council that the 2015 National General Assembly of Local Government (NGA) will be held at the National Convention Centre in Canberra from 14 to 17 June 2015. Council may nominate one Voting Delegate. Council is requested to consider the delegate and nominated observers to attend the NGA.

The theme for the 2015 Conference is "Closest to the Community: Local Government in the Federation". The Australian Government is currently working with all State and Territory Governments and the Australian Local Government Association (ALGA) to develop White Papers on reform of the Federation and Taxation. The NGA presents Local Government as a whole with an opportunity to consider the range of issues being raised and to ensure Local Government's aspirations are addressed in the White Papers.

40/15 RESOLVED (*unanimously*)

1. That Council nominates the Deputy Mayor as the Voting Delegate for the National General Assembly to be held on 14 to 17 June 2015 in Canberra.
2. That Council determined the attendance of the Mayor, Councillors Lesley Furneaux-Cook, Justin Taunton, Tony Doueihy and the General Manager as observers to attend the National General Assembly in Canberra.

(Moved Deputy Mayor George Mannah/Seconded Councillor Justin Taunton)

REPORTS OF COMMITTEES**(ITEM RC1/15) MINUTES OF THE MARCH 2015 BURWOOD LOCAL TRAFFIC COMMITTEE**

File No: 15/8505

Summary

Attached are the Minutes of the Burwood Local Traffic Committee from its meeting of 5 March 2015. The Minutes are hereby submitted to the Ordinary Council Meeting for consideration and adoption by Council.

41/15 RESOLVED (*unanimously*)

That the minutes of the Burwood Local Traffic Committee of 5 March 2015 are noted and the recommendations of the Committee as detailed below be adopted as a resolution of the Council.

(Moved Councillor Ernest Wong/Seconded Councillor Tony Doueihy)

(ITEM T.1/15) PARK AVENUE & GLADSTONE STREET, BURWOOD - PROPOSED PEDESTRIAN SAFETY IMPROVEMENTS**Recommendations**

1. That Council approve the installation of dual STOP signs, re-mark the existing linemarking and trim trees at the intersection of Gladstone Street and Park Road, Burwood.
2. That Council approve the installation of a pedestrian refuge island in Park Avenue

at its intersection with Park Road as per the attached plan in the Agenda, including 20m of No Stopping on the approach and 10m No Stopping on the departure of the pedestrian refuge.

(ITEM T.2/15) QUEEN STREET, CROYDON - PROPOSED NO PARKING RESTRICTIONS

Recommendation

1. That Council approve the installation of 'NO PARKING – 2.30pm to 4.00pm School Days Only' along the southern side of Queen Street between Lucas Road and Cheltenham Road, Croydon, for a length of 36.0m.

(ITEM T.3/15) VICTORIA STREET EAST, BURWOOD - DEDICATED TAXI DROP OFF AREA

Recommendations

1. That Council approve the installation of new "No Parking – Taxis Excepted" signage in Victoria Street East, Burwood, for a length of 18.0m.
2. That Council approve the realignment of the southern kerb and gutter in Victoria Street East, Burwood, as per attached plan in the Agenda.
3. That Council approve the installation of the painted island and road pavement arrow in Victoria Street East, Burwood, as per attached plan in the Agenda.

(ITEM T.4/15) PHILIP STREET, STRATHFIELD - PARKING RESTRICTIONS

Recommendation

That Council approve the conversion of the existing 1P parking restrictions to 2P parking on both sides of Philip Street, Strathfield.

(ITEM T.5/15) HORNSEY STREET, BURWOOD - AUTHORISED COUNCIL VEHICLE PARKING

Recommendations

1. That Council approve the installation of one "No Parking – Authorised Burwood Council Works Vehicles Excepted" bay on the northern side of Hornsey Street, Burwood, outside the entrance to Council's Library and Community Hub.
2. That the double centre lines be reduced to ensure vehicles parking in this area are not within 3 metres as per the road rules.

(ITEM T.6/15) JOHN STREET, BURWOOD - SHORT TERM PARKING

Recommendation

That Council convert the existing "Loading Zone 6am to 7pm" in John Street, between George Street and Railway Crescent, to "15 Minute Parking 6am – 7pm".

(ITEM T.7/15) ANZAC COMMEMORATIVE DAWN SERVICE 2015

Recommendations

1. That Council approve the parade along Burwood Road from Church Street to Burwood Park on Saturday 25 April 2015 commencing at 6.00am.
2. That organisers/marshals ensure that all participants remain within the confines of the north bound lane.
3. That Council and RMS note that this is a Category 3 event.

(ITEM T.8/15) EASTER ROLLING ROAD CLOSURE -28 MARCH 2015

Recommendations

1. That Council approve the parade along Burwood Road from St Paul's Church to Burwood Park on Saturday 28 March 2015 commencing at 12.30pm;
2. That organisers/marshals ensure that all participants remain within the confines of the north bound lane.

3. That the Parade be noted as being a Class 3 Event.

INFORMATION ITEMS

(ITEM IN9/15) AUDIT COMMITTEE - SUMMARY REPORT

File No: 15/8183

Summary

To brief Councillors and the public on activities of the Audit Committee.

No Decision – Information Item Only

(ITEM IN10/15) ANSWERS TO QUESTIONS WITHOUT NOTICE FOR THE COUNCIL MEETING OF 8 DECEMBER 2014

File No: 15/8027

Summary

At the Council Meeting of 23 February 2015 the following Questions without Notice (QWN) were submitted by Councillors. Staff responded to the QWN and Councillors were notified on 6 March 2015 of the outcome of the QWN.

These are now submitted as part of the Council Agenda for Public Notification.

QUESTIONS WITHOUT NOTICE – COUNCIL MEETING OF 23 FEBRUARY 2015	
Question	Response
<p><u>Q1 - Councillor Lesley Furneaux-Cook</u></p> <p>I have had several complaints regarding the wall mural at the Café site at Burwood Station Square. Who approved the mural and was there any other public artists approached?</p>	<p><u>Executive Manager</u></p> <ol style="list-style-type: none"> 1. Council approached CityRail seeking permission to utilise the wall for installations (eg. Green wall), but permission was not granted. However, Council was allowed to paint a mural on the wall. 2. Council's Media and Communications Team prepared a brief for a mural to seek quotations from various artists. The brief was centred on Burwood as a multicultural, vibrant centre, a place where intergenerational exchange is encouraged and where progress is mixed with heritage. Given that Railway Square provides free Wi-Fi, television screen and is aimed at creating a safe and vibrant location for the younger generations, it was decided that the mural would be in full colours. 3. Council received 3 quotes for the mural, from well known mural artists in NSW. 4. Artist Mike Watt was chosen as the

	<p>preferred supplier. Mike Watt's proposal resonated with the concept brief, expressing a desire to paint a group of people of all ages and background, smiling and chatting in Burwood. This concept was strongest in articulating the diverse multiculturalism of the local area by depicting young and aged people sharing skills and knowledge. Mike's portfolio of existing work was also the most diverse in styles, having a graphic design and illustration background, as opposed to solely graffiti.</p> <p>5. Mike Watt's proposal was also very competitive, at \$3,000.</p> <p>6. Council started receiving positive comments about the mural even before its unveiling, in particular through Facebook, Twitter and Instagram and continues to collect feedback for future reference. The comments can be made available to Councillors upon request.</p>
<p><u>Q2 - Councillor Lesley Furneaux-Cook</u></p> <p>In June 2012, Council sent letters to residents in the area that gutter and road restoration would take place in Mosely Street. Has this taken place?</p>	<p><u>Senior Manager Assets and Design</u></p> <p>In late 2014 footpath repair works were carried out in Mosely Street in front of No.'s 14, 16, 20, 22, 24, 26, 28, 30, 32 & 34 on the eastern side and No.'s 9, 11, 13, 15, 21, 23, 31, 33, 35, 37, 41 & 47 on the western side. Some additional maintenance work on both sides of the footpath closer to Parramatta Road has been marked out but is yet to be programmed.</p> <p>In August 2012, kerb & gutter and drainage works were carried out on the intersection of Mosely Street and Cooper Street replacing the old style drainage converters and raising the level of the kerb & gutter on both the northeast and northwest corners of the intersection. Further the road pavement in the shoulder was repaired to match new kerb, improving the crossfall of the road. At the same time the footpath adjacent and the pedestrian crossing in Cooper Street (just west of Mosely Street) was upgraded as a joint project with Canada Bay Council.</p> <p>In June 2012 the IMG Asset Condition Assessment program was completed, (i.e. the Quad-bike Survey) at that time the condition of the road pavement in the section of Mosely Street between Cooper Street and Everton Road was rated as satisfactory and not in need of immediate</p>

	<p>repairs. Since June 2012 Council's maintenance crews have carried out some localised pavement repair works mainly due to the impact of bus movement on the road pavement. Two additional areas have been identified as requiring further maintenance and this work will be programmed in the coming months.</p>
<p>Q3 - Councillor Lesley Furneaux-Cook</p> <p>What submission is Council going to make to the Greater Sydney Commission?</p>	<p>General Manager's Office</p> <p>On 17 December 2014, upon the release of the Metropolitan Strategy (A Plan for Growing Sydney), I wrote to Councillors advising that the Burwood LGA is included in the Central Subregion with 10 other Councils and that Burwood is identified as a Strategic Centre. The role of the Greater Sydney Commission is to oversee the implementation of the Plan and be responsible for liaising with Councils across Sydney.</p> <p>SSROC and the Central Subregion are looking at preparing a submission for all Councils.</p>

No Decision – Information Item Only

(ITEM IN11/15) PETITIONS

File No: 15/78

Summary

Council has received three petitions since the last Council Meeting.

Background

Date Received	Petition Subject	No. of Household old within the LGA	No. of Household outside the LGA	Responsible Council Division
20 February 2015	Residents objecting to Development Application 2014.205 at 2A-8 Burwood Road Burwood in relation to demolition of 2x2 storey buildings and one single storey building and the construction of a 9 storey mixed use development (50 units) and 23 retail spaces on ground floor including 2 basement levels	25	0	Land, Infrastructure and Environment
3 March 2015	Residents objecting to Development Application	113	0	Land, Infrastructure

MINUTES OF BURWOOD COUNCIL MEETINGS

23 MARCH 2015

	2014.053 at 22-24 Grosvenor Street, Croydon in relation to demolition of all existing structures on Site B and the erection of a 8 storey residential flat building consisting of 40 residential units and two basement levels of car parking			and Environment
5 March 2015	Residents objecting to Development Application 2015.004 at 13-17 Grosvenor Street and 12-16 Boundary Street, Croydon in relation to demolition and construction of residential flat building	5	0	Land, Infrastructure and Environment

Comments

That Council notes that the Petitions have been referred to the appropriate Council Officers for attention.

No Decision – Information Item Only**QUESTIONS WITHOUT NOTICE**

The following Questions Without Notice were submitted at the Meeting:

Cr Tony Doueihy

Can Councillors be provided with an after hours' telephone number for contacting Rangers?

Cr Lesley Furneaux-Cook

What is the update on the investigation of the expansion of the leash free area at the Enfield Ex-bowling Club? It is currently being used by "Hala" trucks dumping soil.

As Burwood Council was successful in gaining permission from State Rail for the mural at Railway Square. Why have we not been equally successful in negotiating a mural at The Stand Railway bridge?

Has Council considered to apply for the 2015 Heart Foundation Local Government Awards? The program at Henley Park started 2010 has flourished, expended and built a great Community with added health benefits.

Cr Justin Taunton

Ducks are fouling the paths around the pond and therefore creating risk associated with disease and slippery surfaces, could this issue be looked at?

During the last Chinese New Year event a person required the use of the new automated toilet in Burwood park and found he couldn't access the toilet as the red light was on, could this issue be looked at?

This concluded the business of the meeting and Council rose at 7:30pm.

This is page 14 of the Minutes of the Ordinary Meeting of Burwood Council held on 23 March 2015

Confirmed this 27th Day of April 2015.

MAYOR

GENERAL MANAGER

(ITEM 28/15) REVIEW OF THE GENERAL MANAGER'S DELEGATIONS

File No: 15/8699

REPORT BY DEPUTY GENERAL MANAGER CORPORATE, GOVERNANCE AND COMMUNITY

Summary

To seek Council's review and approval of the General Manager's Delegations.

Background

The General Manager's Delegations were last endorsed by Council on 26 August 2013. In accordance with Section 380 of the *Local Government Act 1993*. At times throughout term Council may review those delegations.

The Act provides Council with powers, authorities and duties. It is the primary source of Council's functions although other legislation, such as the *Environmental Planning and Assessment Act 1979* and the *Roads Act 1993*, impose further functions for Council to administer.

Due to the nature, scope and complexity of the functions Council has to perform, the Act makes provision for the Council to delegate those functions to the General Manager. However, section 377(1) of the Act provides functions that Council cannot delegate to the General Manager.

In addition, the General Manager may delegate any of the functions of the General Manager (other than the power of delegation) to any person or body (including another employee of the Council). For accountability purposes a copy of the Delegations Register (including the sub-delegations from the General Manager to Council Officers) will be made available on Council's website.

Proposal

The General Manager's Delegations have been reviewed to ensure that Council's processes in relation to Development Applications may be improved. The Proposal is to remove the requirement for a Development Application for a dwelling house that exceeds 450m² to be referred to Council. These Development Applications would be determined in accordance with legislation and policy.

That Council endorses the General Manager's Delegations in accordance with the *Local Government Act 1993*.

Planning or Policy Implications

Council adopted the following document which will now be superseded and to be rescinded by Council:

1. Delegations General Manager - Adopted on 26 August 2013

Financial Implications

No Financial implications.

Conclusion

That Council endorse the General Manager's Delegations in accordance with Section 377 (2) of the *Local Government Act 1993*.

Recommendation(s)

That Council endorses the General Manager's Delegations in accordance with Section 377 (2) of

the *Local Government Act 1993*.

Attachments

1 Draft - General Manager's Delegations 3 Pages

ATTACHMENT 1

ITEM 28/15 Review of the General Manager's Delegations.DOC
Draft - General Manager's Delegations



Burwood Council

heritage ■ progress ■ pride

DRAFT - GENERAL MANAGER'S DELEGATIONS

Suite 1, Level 2, 1-17 Elsie Street, BURWOOD NSW 2134
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Phone: 9911-9911 - Fax: 9911-9900
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Public Document
Approved by the Council: 26 August 2013
Trim No.: 15/8698
Version No.: 1
Ownership: Governance

ATTACHMENT 1

ITEM 27/15 Review of the General Manager's Delegations.DOC
Draft - General Manager's Delegations

Purpose

To devolve accountability to the General Manager to ensure the uncertainty associated with limit of authority, responsibility and accountability which will improve Council's service through speedier resolution for the organisation and customer needs.

This document outlines what functions are not delegated to the General Manager and thereby the General Manager has delegation to undertake all other functions.

Delegations

The General Manager does not have the delegation to undertake the following in accordance with Section 377 of the *Local Government Act 1993* (the Act):

1. the appointment of a General Manager
2. the making of a rate
3. a determination under Section 549 as to the levying of a rate
4. the making of a charge
5. the fixing of a fee
6. the borrowing of money
7. the voting of money for expenditure on its works, services or operations
8. 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)
9. the acceptance of tenders which are required under this Act to be invited by the Council
10. the adoption of a management plan under Section 406
11. the adoption of a financial statement included in an annual financial report
12. a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6
13. the fixing of an amount or rate for the carrying out by the Council of work on private land
14. 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
15. 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*
16. the power of the Council to authorise the use of reasonable force for the purpose of gaining entry to premises under Section 194
17. a decision under Section 356 to contribute money or otherwise grant financial assistance to persons
18. a decision under Section 234 to grant leave of absence to the holder of a civic office

ATTACHMENT 1

ITEM 27/15 Review of the General Manager's Delegations.DOC
Draft - General Manager's Delegations

19. the making of an application, or the giving of a notice, to the Governor or Minister
20. this power of delegation
21. any function under this or any other Act that is expressly required to be exercised by resolution of the Council.

Development Application Delegations

The General Manager can not approve Development Applications where:

1. Petitions and more than four valid planning objections to the development application have been received from separate households and the application has not been refused.
2. Development where there is major variation under State Environmental Planning Policy No. 1 (more than a 10%) from Council's Development Standards or Clause 4.6 of BLEP 2012.
3. Any application specifically required by the Building and Development Committee or Council to be considered at a subsequent Building and Development Committee or Council Meeting.
4. Any matter subject to appeal.
5. Applications having a major environmental impact on the locality and which involve land owned by Council.

With respect to two-storey houses and first floor conversions and additions, authority is not delegated to the General Manager to determine applications under the following circumstances:

1. Where five valid planning objections to the development application have been received from separate households within the notification area.

These matters must be referred to either Council or the Building and Development Committee for determination.

Other Matters

Emergency Management (Local)

The General Manager can not deploy Council's resources and to incur costs, on Council's behalf, over \$25,000 in the case of an emergency without Council approval.

Writing Off Accounts

The General Manager does not have the delegation to approve the writing off of accounts greater than \$3,000. Write offs are reported to Council on an annual basis.

Writing Off Stores and Materials

The General Manager does not have the delegation to approve the write on and off stores and materials greater than \$3,000.

MINUTES OF BURWOOD COUNCIL MEETING

6 FEBRUARY 2018

- The General Manager must keep a Register of Pecuniary Interest Returns and the Returns must be available for inspection by members of the public.
- The General Manager must arrange for the tabling of the Returns at the first meeting held after the last day of the period for lodgement.

11/18 RESOLVED *(carried unanimously)*

That the Primary Disclosures by Councillors be noted and accepted as tabled.

(Moved Deputy Mayor Lesley Furneaux-Cook/Seconded Councillor Heather Crichton)

(ITEM 5/18) REVIEW OF THE GENERAL MANAGER'S DELEGATIONS WITHIN 12 MONTHS AFTER THE ORDINARY ELECTION - S.380 OF THE LOCAL GOVERNMENT ACT 1993 AND THE INCLUSION OF DEVELOPMENT APPLICATION PROCESS WITH THE INTRODUCTION OF THE INDEPENDENT HEARING AND ASSESSMENT PANEL

File No: 17/63146

Summary

To seek Council's review and approval of the General Manager's Delegations following the Ordinary Council Election in 2017 as required by Section 380 of the *Local Government Act 1993* and the inclusion of the Development Application process with the introduction of the Independent Hearing and Assessment Panel (IHAP).

12/18 RESOLVED *(carried unanimously)*

That Council endorses the General Manager's Delegations by Exception in accordance with Section 380 of the *Local Government Act 1993* and the *Environmental Planning and Assessment Act 1979*.

(Moved Deputy Mayor Lesley Furneaux-Cook/Seconded Councillor George Mannah)

(ITEM 6/18) INVESTMENT REPORT AS AT 30 NOVEMBER 2017

File No: 17/59212

Summary

In accordance with Clause 212 of the *Local Government (General) Regulation 2005*, this report details all money that Council has invested under Section 625 of the *Local Government Act 1993*.

13/18 RESOLVED *(carried unanimously)*

1. That the Investment Report for 30 November 2017 be received and endorsed.
2. That the Certificate of the Responsible Accounting Officer be received and noted.

(Moved Councillor George Mannah/Seconded Councillor Heather Crichton)

(ITEM 5/18) REVIEW OF THE GENERAL MANAGER'S DELEGATIONS WITHIN 12 MONTHS AFTER THE ORDINARY ELECTION - S.380 OF THE LOCAL GOVERNMENT ACT 1993 AND THE INCLUSION OF DEVELOPMENT APPLICATION PROCESS WITH THE INTRODUCTION OF THE INDEPENDENT HEARING AND ASSESSMENT PANEL

File No: 17/63146

REPORT BY ACTING GENERAL MANAGER

Summary

To seek Council's review and approval of the General Manager's Delegations following the Ordinary Council Election in 2017 as required by Section 380 of the *Local Government Act 1993* and the inclusion of the Development Application process with the introduction of the Independent Hearing and Assessment Panel (IHAP).

Background

The General Manager's Delegations were last endorsed by Council on 22 November 2016 (minute no. 130/16). In accordance with Section 380, of the Act the Delegations must be reviewed within twelve months of each Ordinary Council Election.

The Act provides Council with powers, authorities and duties. It is the primary source of Council's functions although other legislation, such as the *Environmental Planning and Assessment Act 1979* and the *Roads Act 1993*, impose further functions for Council to administer.

Due to the nature, scope and complexity of the functions Council has to perform, the Act makes provision for the Council to delegate those functions to the General Manager. However, section 377(1) of the Act provides functions that Council cannot delegate to the General Manager (refer page 2 Attachment 1).

The Delegations by Exception - detail the functions that the General Manager is not authorised to conduct and therefore there is an assumption that all other activities are within the delegation of the General Manager (refer Attachment 1).

In addition, the General Manager may delegate any of the functions of the General Manager (other than the power of delegation) to any person or body (including another employee of the Council). For accountability purposes a copy of the Delegations Register (including the sub-delegations from the General Manager to Council Officers) will be made available on Council's website.

Proposal

That Council endorses the General Manager's Delegations by Exception in accordance with the *Local Government Act 1993* and the *Environmental Planning and Assessment Act 1979* (EP&A Act) requirements for the determination of Development Applications which are not required to be determined by the IHAP.

The Delegations have been amended with the following to meet the requirements of the EP&A Act for the introduction of local planning panels:

Development Application Delegations

The General Manager cannot assess the following Development Applications:

COUNCIL

6 FEBRUARY 2018

Value	DAs with a value of more than \$5 million but less than \$30 million
Conflict of Interest	DAs for which the applicant or owner is the Council, a Councillor, a member of the Councillor's family, a member of Council Staff, or a State or Federal member of Parliament.
Contentiousness	DAs that receive 10 or more objections/unique submissions from separate households by way of objection. Where a petition is received this is classed as one objection.
Strategic Importance	DAs accompanied by a proposed voluntary planning agreement.
Departure from Development Standards	DAs seeking to depart by more than 10% from a development standard.
High-risk Development Types	<p>DAs associated with a higher risk of corruption, including:</p> <ul style="list-style-type: none"> ▪ Designated development, as set out in the <i>Environmental Planning and Assessment Regulation 2000</i> ▪ Development to which <i>State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development</i> applies ▪ Demolition of heritage items ▪ Development for the purpose of new licenced premises, that will require one of the following liquor licenses: <ul style="list-style-type: none"> – A club licence under the <i>Registered Clubs Act 1976</i> – A hotel (general bar) licence under the <i>Liquor Act 2007</i> – An on-premises licence for public entertainment venues under the <i>Liquor Act 2007</i> ▪ Development for the purpose of sex services premises and restricted premises
Modifications	Modification applications that meet the above criteria.

These matters must be referred to the Independent Hearing and Assessment Panel for determination.

The General Manager's Delegations by Exception are now submitted to the Council for adoption.

Planning or Policy Implications

Council adopted the following document which will now be superseded and is to be rescinded by Council:

1. Delegations General Manager - Adopted on 22 November 2016

Financial Implications

No Financial implications.

Conclusion

It is appropriate for the Council to endorse the General Manager's Delegations in accordance with Section 380 of the *Local Government Act 1993* which states that a Council must, within twelve

months after each ordinary election, review all of its delegations.

The Delegations are also compliant with the requirements of the *Environmental Planning and Assessment Act 1979* for the determination of Development Applications which are not required to be determined by the Independent Hearing and Assessment Panel.

Recommendation(s)

That Council endorses the General Manager's Delegations by Exception in accordance with Section 380 of the *Local Government Act 1993* and the *Environmental Planning and Assessment Act 1979*.

Attachments

1 Draft - General Manager's Delegations by Exception

ATTACHMENT 1

ITEM 5/18 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993 and the inclusion of Development Application process with the Introduction of the Independent Hearing and Assessment Panel.DOC
Draft - General Manager's Delegations by Exception



Burwood Council

heritage ▪ progress ▪ pride

**DRAFT - GENERAL MANAGER'S
DELEGATIONS BY EXCEPTION**

Suite 1, Level 2, 1-17 Elsie Street, BURWOOD NSW 2134
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Public Document
Adopted by the Council: 22 November 2016 (min. no. 130/16)
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Ownership: Governance

ATTACHMENT 1

ITEM 5/18 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993 and the inclusion of Development Application process with the Introduction of the Independent Hearing and Assessment Panel.DOC Draft - General Manager's Delegations by Exception

 General Manager's Delegations by Exception

Purpose

To devolve accountability to the General Manager to ensure the uncertainty associated with limit of authority, responsibility and accountability which will improve Council's service through speedier resolution for the organisation and customer needs.

This document outlines what functions are not delegated to the General Manager and thereby the General Manager has delegation to undertake all other functions.

Delegations

The General Manager does not have the delegation to undertake the following in accordance with Section 377 of the *Local Government Act 1993* (the Act):

1. the appointment of a general manager
2. the making of a rate
3. a determination under section 549 as to the levying of a rate
4. the making of a charge
5. the fixing of a fee
6. the borrowing of money
7. the voting of money for expenditure on its works, services or operations
8. 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)
9. the acceptance of tenders to provide services currently provided by members of staff of the council
10. the adoption of an operational plan under section 405
11. the adoption of a financial statement included in an annual financial report
12. a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6
13. the fixing of an amount or rate for the carrying out by the council of work on private land
14. 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
15. 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*
16. the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194
17. a decision under section 356 to contribute money or otherwise grant financial assistance to persons
18. a decision under section 234 to grant leave of absence to the holder of a civic office
19. the making of an application, or the giving of a notice, to the Governor or Minister

ATTACHMENT 1

ITEM 5/18 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993 and the inclusion of Development Application process with the Introduction of the Independent Hearing and Assessment Panel.DOC Draft - General Manager's Delegations by Exception

General Manager's Delegations by Exception

- 20. this power of delegation
- 21. any function under this or any other Act that is expressly required to be exercised by resolution of the council

Development Application Delegations

The General Manager cannot assess the following Development Applications:

Value	DAs with a value of more than \$5 million but less than \$30 million
Conflict of Interest	DAs for which the applicant or owner is the Council, a Councillor, a member of the Councillor's family, a member of Council Staff, or a State or Federal member of Parliament.
Contentiousness	DAs that receive 10 or more objections/unique submissions from separate households by way of objection. Where a petition is received this is classed as one objection.
Strategic Importance	DAs accompanied by a proposed voluntary planning agreement.
Departure from Development Standards	DAs seeking to depart by more than 10% from a development standard.
High-risk Development Types	<p>DAs associated with a higher risk of corruption, including:</p> <ul style="list-style-type: none"> ▪ Designated development, as set out in the <i>Environmental Planning and Assessment Regulation 2000</i> ▪ Development to which <i>State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development</i> applies ▪ Demolition of heritage items ▪ Development for the purpose of new licenced premises, that will require one of the following liquor licenses: <ul style="list-style-type: none"> - A club licence under the <i>Registered Clubs Act 1976</i> - A hotel (general bar) licence under the <i>Liquor Act 2007</i> - An on-premises licence for public entertainment venues under the <i>Liquor Act 2007</i> ▪ Development for the purpose of sex services premises and restricted premises
Modifications	Modification applications that meet the above criteria.

These matters must be referred to Independent Hearing and Assessment Panel for determination.

Other Matters

Writing Off Accounts

The General Manager does not have the delegation to approve the writing off of accounts greater than \$5,000. Write offs are reported to Council on an annual basis.

ATTACHMENT 1

ITEM 5/18 Review of the General Manager's Delegations within 12 months after the Ordinary Election - S.380 of the Local Government Act 1993 and the inclusion of Development Application process with the Introduction of the Independent Hearing and Assessment Panel.DOC Draft - General Manager's Delegations by Exception

General Manager's Delegations by Exception

Writing Off Stores and Materials

The General Manager does not have the delegation to approve the write on and off stores and materials greater than \$5,000.



MINUTES OF THE MEETING OF THE COUNCIL OF BURWOOD held at the Council Chamber, Suite 1, Level 2, 1-17 Elsie Street, Burwood on Tuesday 24 September 2019 commencing at 6.07pm.

ATTENDANCE Councillor John Faker (Mayor)
Councillor Ernest Chan
Councillor Heather Crichton
Councillor Lesley Furneaux-Cook (Deputy Mayor)
Councillor George Mannah

Mr Tommaso Briscese, Acting General Manager
Mr Fab Zincone, Acting Deputy General Manager Corporate, Governance & Community
Mr Martin Jenner, Acting Deputy General Manager Land, Infrastructure & Environment & Development
Mr Wayne Armitage, Chief Finance Officer
Ms Pina Viney, Manager Governance
Mr Harry Gavrilis, Group Manager, Environment & Health
Ms Mikaela Thorogood, Acting Group Manager, Property & Building Services
Ms Vera Karpowicz, Executive Support Officer

OPENING OF MEETING BY THE MAYOR

The Mayor opened the meeting with a prayer.

OPEN FORUM

There was no business for this item.

APOLOGIES

102/19 RESOLVED (*carried unanimously*)

Councillor Raj Dixit and Councillor Joseph Del Duca were apologies.

(Moved Deputy Mayor Lesley Furneaux-Cook/Seconded Councillor George Mannah)

DECLARATIONS OF INTEREST

Mayor, Councillor John Faker, declared a non-pecuniary conflict of interest in relation to Item 78/19, Lease of 2 and 2A Comer Street Burwood, but will remain in the Chambers for the debate, as the applicant is known to the Mayor through the community and his daughter attends the Montessori School.

DECLARATIONS OF POLITICAL DONATIONS

There were no declarations of political interests by Councillors.

This is page 1 of the Minutes of the Ordinary Meeting of Burwood Council held on 24 September 2019

MINUTES OF BURWOOD COUNCIL MEETINGS

24 SEPTEMBER 2019

CONFIRMATION OF MINUTES**103/19 RESOLVED** *(carried unanimously)*

That the Minutes of the Meeting of the Council of Burwood held on Tuesday 27 August 2019, as circulated, be confirmed and signed as a true record of the proceeding of the meeting.

(Moved Deputy Mayor Lesley Furneaux-Cook/Seconded Councillor Ernest Chan)

ADDRESS BY THE PUBLIC ON AGENDA ITEMS

There was no business for this item.

(ITEM MM12/19) ZERO LITTER TO RIVER

File No: 19/42551

Summary

Our rivers, oceans and waterways provide many benefits, including the air we breathe, climate regulation, food, recreation, and amenity. However, the amount of plastic contained in these items are at crisis levels and needs immediate action.

Each year, at least eight million tonnes of plastics flow into the ocean — which is equivalent to dumping the contents of one garbage truck every minute. If no action is taken, this is expected to increase to two per minute by 2030 and four per minute by 2050 — and, by 2050, there will be more plastic than fish in our oceans by weight.

The amount of 80% of plastic pollution in our ocean comes from land-based sources flowing through drains to our waterways and oceans via stormwater runoff. Urban stormwater runoff often also contains harmful levels of other less visible (but extremely damaging) pollutants, such as suspended solids, heavy metals, nutrients and bacteria. Stormwater is recognised as the key source of pollution in our urban waterways and the vast majority of marine debris entering Australian waters are land-based and generated locally.

Existing Initiatives

Burwood is actively working with our local community to address littering to help keep our community beautiful and to protect our local flora and fauna and reduce the discharge of litter that makes its way to our local and neighbouring rivers and downstream waterways.

This includes the following:

- Beautifying areas so that they are less likely to attract litter
- Employing a Safe & Clean Team to daily patrol and clean our business streets
- Provision of container deposit scheme stations
- Development and promotion of anti-littering murals/public art to remind and educate people to do the right thing
- Be an active member of the "Get the Site Right" Parramatta River Catchment Regulatory Program a collective team of councils focusing on reducing pollutants from building sites entering the waterway system
- Development and distribution of educational material to combat littering
- Enforcement – focusing on the issue through the services of a Waste

This is page 2 of the Minutes of the Ordinary Meeting of Burwood Council held on 24 September 2019

- Investigations Officer (including issuing warnings and fines for littering).
- Installation and management of additional Gross pollutant traps

Gross pollutant traps (GPTs) are currently installed within Wangal Park. These GPTs are similar to underground garbage bins that intercept 'gross pollutants' (defined as debris items larger than five millimetres such as cigarette butts) within the stormwater drainage network during rainfall events.

GPTs subsequently help prevent the discharge of pollution into downstream waterways, and can be large underground chambers or small 'gully baskets' (inserted into stormwater gully pits). Whilst GPTs are highly effective at removing gross pollutants, they also remove other pollutants such as sediment, heavy metals and bacteria.

'Zero Litter to River' for Burwood

Burwood should set a goal of 'Zero Litter to River' by 2030. In technical terms, this means that, by 2030, there will be zero (or at least minimal) discharge of any 'gross pollutants' to any waterway (creek, river or harbour) during any rainfall event up to a three month rainfall (98.17% annual exceedance probability) event.

Achieving this target will involve the following principal actions:

- Identify a sustainable source of funding for the appropriate implementation and management of principal and supplementary actions
- Review of existing policies for stormwater quality management for new developments
- Review of existing policies for waste management
- Reallocation and review of the Safe & Clean Team
- Installing additional cigarette butt bins and decals (signs) directing smokers to bins
- Installation and management of public place recycling bins in highly transited areas
- Identification and condition assessment of existing Council-owned stormwater treatment assets
- Rectification of any Council-owned stormwater treatment assets (if required and / or appropriate)
- Installation of new stormwater treatment assets
- Appropriate management of new and existing stormwater treatment assets.
- Develop appropriate policies to regulate privately owned and installed stormwater assets in Burwood

Council's existing litter reduction strategies should also be continued and, where appropriate, enhanced to assist in achieving the aforementioned target and reduce the workload for existing and new stormwater treatment assets.

A zero waste target will prevent tonnes of gross pollutants (over 25,000 standard wheelie bins of pollution) entering downstream waterways and the ocean every year. A target will greatly assist in protecting the health of our waterways and oceans, and ultimately all of us.

Operational Plan Objective

- 3.1.3 Ensure regular cleaning and maintenance of local areas to prevent damage to the environment
- 3.2 Provide sustainable waste management practices

MINUTES OF BURWOOD COUNCIL MEETINGS

24 SEPTEMBER 2019

- 3.2.1 Promote existing recycling services
- 3.2.2 Identify emerging waste management solutions
- 3.3 Educate the community on sustainable practices
- 3.3.3 Encourage the community to take pride in the cleanliness and maintenance of the area
- 3.4.3 Ensure planning promotes environmentally sustainable development to reduce impacts on the environment
- 5.3.2 Maintain an attractive Burwood CBD

104/19 RESOLVED (*carried unanimously*)

1. Burwood endorses a 'Zero Litter to River' target across the entire Local Government Area by 30 June 2030.
2. The Acting General Manager, in consultation with Stormwater NSW, industry and environmental groups, prepares a report to be brought back to Council prior to the 2020-2021 budget process to demonstrate the best alternatives for how this target can be achieved including timeframes and budgets.
3. The Acting General Manager prepares a report and conducts an audit of stormwater pits to identify what filtering or gross pollutant trap solutions are already being used, what other locations could benefit from their installation and report back to Council by February 2020.
4. The Acting General Manager reviews existing policies for waste management and investigates implementing a waste management strategy and prepares a report to be brought back to Council prior to the 2020-2021 budget process to demonstrate the best alternatives for how this target can be achieved including timeframes and budgets.

(ITEM MM13/19) AIRCONDITIONING UNITS ON SHOP AWNINGS AND MECHANICAL EXHAUST SYSTEMS

File No: 19/42591

Summary

Over last few months I have received a number of complaints from local residents about air conditioning units and mechanical exhaust systems where the smoke, noise and smells fill up the whole area it surrounds particularly restaurants within the Burwood and Strathfield Town Centres.

The Burwood LGA has had a significant amount of new restaurants open up recently and, to ensure businesses are compliant and are enhancing our LGA, an audit should be undertaken.

Burwood is planning a DCP review next year and, as part of this process, it should consider including a specific section for air conditioning and mechanical exhaust systems. This review should be aimed to align with NSW State Government requirements and neighbouring Council practices.

105/19 RESOLVED (*carried unanimously*)

1. The Acting General Manager undertakes an investigation and an audit of all existing air-conditioning units located on shop awnings over public footways to ensure they are safe and compliant.

MINUTES OF BURWOOD COUNCIL MEETINGS

24 SEPTEMBER 2019

2. The Acting General Manager conducts an audit of all existing mechanical exhaust systems installed in restaurants particularly where food preparation and charcoal or BBQ cooking methods are used within the Burwood and Strathfield Town Centres and undertake regular inspections to ensure they are compliant.
3. The Acting General Manager investigates imposing conditions on new developments proposing mechanical exhaust systems where food preparation and charcoal or BBQ cooking methods are used.

(ITEM MM14/19) INSTALLATION OF WASTE BINS AT BUS STOPS WITHIN TOWN CENTRES

File No: 19/43670

Summary

I have recently received enquiries from local community members regarding litter within our town centres and highlighting the need to install additional waste and recycling bins near bus stops.

I think we can all agree litter around our Town Centres is both unsightly, unhygienic and at times can cause a problem for the environment.

Therefore, I recommend Council to investigate possible options to install additional waste and recycling bins at bus stops within our Town Centres and/or possibly install smaller bins on poles at bus stops and near parking meters.

Operational Plan Objective

- 3.3.3 Encourage the community to take pride in the cleanliness and maintenance of the area

106/19 RESOLVED (*carried unanimously*)

1. The Acting General Manager undertakes an audit of all existing waste and recycling bins in the vicinity of bus stops and parking metres located within the Town Centres.
2. The Acting General Manager investigates the installation of additional waste and recycling bins near existing bus stops and parking meters located within the Town Centres and, in particular, the possibility to install smaller bins on poles, and reports back to Council on the budget requirements to the October meeting.

NOTICE OF MOTION

(ITEM NM3/19) PROPOSED DONATION TO ST MERKORIOUS - CR HEATHER CRICHTON

File No: 19/42460

Summary

I have recently been approached by charity group St Merkorious seeking support for the work they are doing in assisting disadvantaged people in the local community.

St Merkorious is trying to establish a free Community Meal and Fellowship project to cater of the needy in the Burwood area. The Community Meal aims to support those who are struggling in our society and to offer inclusion, social connection and referrals to other services.

St Merkorious has identified Burwood Park as an ideal location for the Community Meal project.

Ideally they would like to use the Park, the Pavilion and the Community Centre for their initiative so as to have options in the event of adverse weather.

They suggest to hold the initiative once a month and would advertise it through church groups and Council connections to attract people who are in need of the service.

St Merkorious has a pool of corporate volunteers who can assist them with the initiative.

St Merkorious, like most registered charities, has limited funds and are seeking Council support to use the Park and Community Centre at no charge. This will allow them to fully use the funds they do have to support and assist those in need.

In my view, this is a worthy initiative that has the potential to be of benefit to many local people.

Council, through a modest contribution, can facilitate the implementation of this initiative and support St Merkorious to do its good work.

As an initial step, I recommend that the Community Meal project be supported on a six month trial basis and be primarily aimed at people from the Burwood area who are identified through local churches and charities or by Council.

Operational Plan Objective

1.1.1 A diverse range of strategies and initiatives that meet the needs of the community

107/19 RESOLVED *(carried unanimously)*

1. Council provides \$2,499.00 from the Annual Donations Fund to cover the hire cost of the Burwood Park Community Centre, Pavilion and surrounding areas once a month commencing in October 2019 for community meal events for a six month trial period.
2. St Merkorious is requested to focus on people who live in the local area and who are referred by local churches, charities and Council.
3. St Merkorious is requested to report back on the outcome of the trial, including how many people have attended and how many were from the local area.
4. Council receives a further report at the end of the trial with a view to considering further support.

(Moved Councillor Heather Crichton/Seconded Deputy Mayor Lesley Furneaux-Cook)

GENERAL BUSINESS**(ITEM 70/19) ELECTION OF DEPUTY MAYOR - SECTION 231 (3) OF THE LOCAL GOVERNMENT ACT 1993**

File No: 19/40706

Summary

This report outlines the process and options for the election of a Burwood Council Deputy Mayor.

Operational Plan Objective

- 2.1 Community confidence in Council's decision making
- 2.1.3 Ensure transparency and accountability in decision making

108/19 RESOLVED *(carried unanimously)*

1. That the Council resolve to appoint a Deputy Mayor.
2. That the Council elected a Deputy Mayor by open ballot, if more than a single nomination is received or appoint a single nominee as Deputy Mayor.
3. One single nominee was received and Councillor George Mannah was elected as Deputy Mayor.

(Moved Councillor Lesley Furneaux-Cook/Seconded Councillor Ernest Chan)

CR ERNEST CHAN LEFT THE MEETING AT 6:33PM**(ITEM 71/19) COUNCIL COMMITTEES - DETERMINATION OF COUNCILLOR REPRESENTATION - SEPTEMBER 2019 TO SEPTEMBER 2020**

File No: 19/40709

Summary

To determine the formation of Committees to assist Council in their decision making on various community, technical and planning issues, as well as determine Council representation on such Committees.

Operational Plan Objective

- 2.1 Community confidence in Council's decision making
- 2.1.3 Ensure transparency and accountability in decision making

109/19 RESOLVED *(carried unanimously)*

That Council approves the following Committees and appoints Councillors as Chairpersons, delegates and alternates for the term September 2019 to September 2020:



MINUTES OF BURWOOD COUNCIL MEETINGS

24 SEPTEMBER 2019

	Committee/Board	Chairperson	Delegate(s)	Alternate(s)
1.	Burwood Anzac Commemorative Service Committee	Mayor Cr John Faker	N/A	Deputy Mayor Cr George Mannah
2.	Burwood Local Traffic Committee	Mayor Cr John Faker	N/A	Deputy Mayor Cr George Mannah
3.	General Manager's Contract Review Panel	Mayor Cr John Faker	Cr Lesley Furneaux-Cook Cr George Mannah	Cr Heather Crichton
4.	Audit, Risk and Improvement Committee		Cr Lesley Furneaux-Cook Cr Raj Dixit	
5.	Multicultural Advisory Committee	Cr Ernest Chan		Cr Joseph Del Duca
8.	National Servicemen's Association	Cr Heather Crichton	N/A	Cr Joseph Del Duca
9.	Sandakan Community Educational Committee	Cr Heather Crichton	N/A	Cr Ernest Chan
10.	Sydney Eastern City Planning Panel	N/A	Mayor, Cr John Faker Deputy Mayor Cr George Mannah	Cr Lesley Furneaux-Cook Cr Heather Crichton Cr Ernest Chan Cr Raj Dixit Cr Joseph Del Duca
11.	Southern Sydney Regional Organisation of Councils – Full Committee	N/A	Mayor Cr John Faker Deputy Mayor Cr George Mannah	Cr Ernest Chan Cr Heather Crichton
12.	Southern Sydney Regional Organisation of Councils – Sustainability Committee	N/A	Cr Raj Dixit Cr Lesley Furneaux-Cook	
13.	Southern Sydney Regional Organisation of Councils – Program Delivery	N/A	Cr Joseph Del Duca Cr Ernest Chan	

(Moved Councillor Lesley Furneaux-Cook/Seconded Councillor Heather Crichton)

This is page 8 of the Minutes of the Ordinary Meeting of Burwood Council held on 24 September 2019

(ITEM 72/19) REVIEW OF THE SECTION 7.12 CONTRIBUTIONS PLANS

File No: 19/40873

Summary

The Section 7.12 (formerly Section 94A) contributions plans outline provisions that allow for Council to fund the provision, extension or augmentation of public amenities or public services through developer contributions. The Works Schedule forms part of each contributions plan and provides a detailed breakdown of the facilities, infrastructure and services to be funded through the contributions. This report seeks to revise the Section 7.12 contributions plan that applies to the Burwood Town Centre.

Operational Plan Objective

- 1.1.1 Provide a diverse range of strategies and initiatives that meet the needs of the community
- 1.1.4.1 Offer a range of facilities for hire that accommodate the various types of use required by the community
- 2.4.1.1 Optimise the experience of visitors to Council and implement a service centre at the new Council Administration Offices

110/19 RESOLVED *(carried unanimously)*

- 1. That the Council endorse the draft revised Section 7.12 local infrastructure contributions plan for the Burwood Town Centre for public exhibition in accordance with the relevant legislation.
- 2. That the Acting General Manager be authorised to endorse minor revisions to the contributions plan prior to public exhibition.
- 3. That a further report be provided to the Council detailing the results of the public exhibition.

(Moved Deputy Mayor George Mannah/Seconded Councillor Heather Crichton)

(ITEM 73/19) INVESTMENT REPORT AS AT 31 AUGUST 2019

File No: 19/40914

Summary

In accordance with Clause 212 of the *Local Government (General) Regulation 2005*, this report details all money that Council has invested under Section 625 of the *Local Government Act 1993*.

Operational Plan Objective

- 2.3.1 Identify and maintain additional revenue sources to ensure financial sustainability

RESOLVED *(carried unanimously)*

- 1. That the investment report for 31 August 2019 be received and endorsed.

MINUTES OF BURWOOD COUNCIL MEETINGS

24 SEPTEMBER 2019

2. That the Certificate of the Responsible Accounting Officer be received and noted.

(Moved Councillor Lesley Furneaux-Cook/Seconded Deputy Mayor George Mannah)

(ITEM 74/19) REVISED GENERAL MANAGER'S DELEGATIONS BY EXCEPTION

File No: 19/40711

Summary

To seek the Council's review and approval of the revised General Manager's Delegations by Exception.

Operational Plan Objective

- 2.1 Community confidence in Council's decision making
2.1.3 Ensure transparency and accountability in decision making

111/19 RESOLVED (*carried unanimously*)

That the Council approves the General Manager's Delegations by Exception in accordance with Section 377 (2) of the *Local Government Act 1993*.

(Moved Deputy Mayor George Mannah/Seconded Councillor Heather Crichton)

(ITEM 75/19) POLICIES TO BE RESCINDED BY COUNCIL

File No: 19/40710

Summary

To seek Council's rescission of the:

1. *Events Policy – Invitation to the Mayor* (doc. no. 11/22964)
2. *Development Applications (DA) Mediation Policy* (doc. no. 11/22922)
3. *Section 96 Modifications – Reporting to Council* (doc. no. 11/38725)
4. *Code for Activities Affecting Roads* (doc. no. 12/52576)
5. *Community Consultation Protocol – Engineering Services* (doc. no. 11/22738)
6. *Pedestrian Facilities Alterations - Notification to the Access Committee* (doc. no. 11/38423)
7. *Smoke-Free Environments Policy 2009* (doc. no. 11/38461)

as these documents are no longer relevant or have been superseded.

Operational Plan Objective

- 2.1 Community confidence in Council's decision making
2.1.3 Ensure transparency and accountability in decision making

112/19 RESOLVED (*carried unanimously*)

That the Council rescinds the:

1. *Events Policy – Invitation to the Mayor*
2. *Development Applications (DA) Mediation Policy*

MINUTES OF BURWOOD COUNCIL MEETINGS

24 SEPTEMBER 2019

3. Section 96 Modifications – Reporting to Council
4. Code for Activities Affecting Roads
5. Community Consultation Protocol – Engineering Services
6. Pedestrian Facilities Alterations - Notification to the Access Committee
7. Smoke-Free Environments Policy 2009

as they are no longer relevant or have been superseded.

(Moved Councillor Lesley Furneaux-Cook/Seconded Councillor Heather Crichton)

(ITEM 76/19) DISCLOSURE OF PECUNIARY INTERESTS 2018-2019 - BURWOOD LOCAL PLANNING PANEL MEMBERS

File No: 19/40708

Summary

In accordance with Clause 4.15 of the Code of Conduct for the Local Planning Panel Members:

- the General Manager must keep a Register of Pecuniary Interest Returns and the returns must be tabled at a Council Meeting

Operational Plan Objective

- 2.1 Community confidence in Council's decision making
 - 2.1.3 Ensure transparency and accountability in decision making

113/19 RESOLVED *(carried unanimously)*

That the Disclosures of Pecuniary Interest and Other Matters Returns by the Burwood Local Planning Panel Members for the period ending 30 June 2019 be noted and accepted as tabled.

(Moved Deputy Mayor George Mannah/Seconded Councillor Heather Crichton)

(ITEM 77/19) ISSUE OF WASTE BINS TO RESIDENTIAL HIGH RISE DEVELOPMENTS AND BOARDING HOUSES

File No: 19/42019

Summary

For Council to endorse actions taken to rationalize the amount of waste bins to residential high rise buildings and note information in relation to issuing of bins to boarding houses

Operational Plan Objective

- 3.2.2 Actively seek new processes and technology – implement waste management solutions that will benefit the community.

114/19 RESOLVED *(carried unanimously)*

1. That Council note that regular reviews of the waste provisions of the DCP are undertaken.

2. That the findings of the area wide comprehensive waste and recycling audit be reported to Council when finalised.
3. That Council note the information in relation to the commercial nature of boarding houses for waste management purposes.

(Moved Councillor Heather Crichton/Seconded Councillor Lesley Furneaux-Cook)

REPORTS OF COMMITTEES

(ITEM RC4/19) BURWOOD LOCAL TRAFFIC COMMITTEE - SEPTEMBER 2019

File No: 19/41384

Summary

Attached are the Minutes of the Burwood Local Traffic Committee from its meeting of September 2019. The Minutes are hereby submitted to the Ordinary Council Meeting for consideration and adoption by Council.

Operational Plan Objective

4.1.5 - Work with RMS and Transport NSW in the development of integrated transport plans

115/19 RESOLVED *(carried unanimously)*

That the minutes of the Burwood Local Traffic Committee of September 2019 be noted and the recommendations of the Committee as detailed below be adopted as a resolution of the Council.

(ITEM LTC22/19) MONASH PARADE, CROYDON - PARKING ADJACENT TO WANGAL PARK AND MONASH RESERVE

Recommendation

That Council approve the installation of 18 metres of on-street mobility parking space and eight metres of 'No Parking – Authorised Burwood Council Work Vehicles Excepted' signage fronting Monash Reserve and Wangal Park on Monash Parade Croydon.

(ITEM LTC23/19) 15 ORCHARD STREET CROYDON - REQUEST FOR MOBILITY PARKING SPACE

Recommendation

That Council approve the installation of one on-street mobility parking space fronting 15 Orchard Street Croydon.

(ITEM LTC24/19) 2019 BURWOOD FESTIVAL - TRAFFIC MANAGEMENT

Recommendations

1. That Council approves the full road closure of Park Avenue, Burwood, between Burwood Road and Park Road, from 6.00am to 6.00pm on Sunday 13 October 2019.
2. That Council approves the attached TCP clearly showing all proposed advance warning signage and detours.
3. That Council approves the existing parking spaces in Comer Street Burwood, to be reserved for VIP guests, event organisers and emergency vehicles on the day of the event.
4. That the Roads and Maritime Services (RMS) and the Traffic Management Centre

- (TMC) are notified of the festival at least one week prior to the event date.
5. That all proposed temporary VMS boards are approved for installation at the locations specified for a period of one week prior to the event date.

(Moved Councillor Lesley Furneaux-Cook/Seconded Councillor Heather Crichton)

INFORMATION ITEMS

(ITEM IN26/19) PETITIONS

File No: 19/40663

Summary

Petitions received are reported to Council on a monthly basis. Council has received one petition since the July 2019 Council Meeting.

Operational Plan Objective

2.1.1 Provide opportunities for discussions and report decisions back to the community

Background

Date Received	Petition Subject	No. of Households and Businesses within the LGA	No. of Households outside the LGA	Responsible Council Division
12 August 2019	Petition received in objection to development application BD.2018.090 – 12 Minna Street Burwood – Land and Environmental Court Appeal - Amended Plans	7	0	Land, Infrastructure and Environment

Comments

That Council notes that the Petitions have been referred to the appropriate Council Officers for attention.

No Decision – Information Item Only

(ITEM IN27/19) EXECUTION OF VOLUNTARY PLANNING AGREEMENT FOR 180-186 BURWOOD ROAD AND 7-9 BURLEIGH STREET

File No: 19/40837

Summary

The Voluntary Planning Agreement (VPA) for 180-186 Burwood Road and 7-9 Burleigh Street Burwood has been executed. Minor revisions to the draft VPA were made prior to execution including updated Power of Attorney (POA) and legislation section numbers under the Act.

Operational Plan Objective

1.2.1 Inform the community of Council's activities, facilities and services using accessible communication

Council at its meeting on 25 July 2017 resolved to enter into the VPA for the abovementioned site for the provision of a monetary contribution of \$1,076,988 towards public facilities in exchange for an additional 10% floor space within the site's development, after the granting of consent for the Development Application.

At that meeting, it was resolved by Council that the Acting General Manager is authorised to sign the VPA and any related documentation under his Power of Attorney, and that the Acting General Manager is authorised to endorse the minor revisions of the VPA documents prior to execution.

Council wrote to the Developer in February 2018, with two copies of the VPA for their signature. Since then, amendments to section numbers of the Act were made and Council's Power of Attorney has been revised, requiring minor revisions to the VPA be made. The content of the VPA remains substantially the same.

Two copies of the VPA incorporating the abovementioned minor revisions were provided to the Developer in early September 2019 for their signature. These copies were signed and returned to Council for signature, which was executed on 10 September 2019.

No Decision – Information Item Only

(ITEM IN28/19) ANSWERS TO QUESTIONS WITHOUT NOTICE - COUNCIL MEETING OF 27 AUGUST 2019

File No: 19/41027

Summary

At the Council Meeting of 27 August 2019 the following Questions without Notice (QWN) were submitted by Councillors. Council Officers responded to the QWN and Councillors were notified on 12 September 2019 of the outcome of the QWN.

Operational Plan Objective

2.1.3 Ensure transparency and accountability in decision making

These are now submitted as part of the Council Agenda for Public Notification:

QUESTIONS WITHOUT NOTICE – COUNCIL MEETING OF 27 AUGUST 2019	
Question	Response
<p><u>Councillor Lesley Furneaux-Cook</u></p> <p>Question 1:</p> <p>How many buildings in the Burwood Local Government Area</p>	<p><u>Group Manager Building & Development</u></p> <p>Council has been advised of one building in relation to external cladding and that notification was received through Fire & Rescue NSW and (the then) NSW Department of Planning. The building is located within the Burwood Town</p>

MINUTES OF BURWOOD COUNCIL MEETINGS

24 SEPTEMBER 2019

<p>have been identified by the NSW Cladding Taskforce that need rectification?</p>	<p>Centre and Council has contacted the Body Corporate for testing to be carried out to the cladding to establish whether rectification work is required. It is understood that the two series of tests carried out on the cladding of the building are inconclusive and that the Body Corporate is now having discussions with the testing authority (CSIRO). Council has recently been contacted by the Cladding Taskforce with information to assist in the assessment of buildings that contain cladding. This will now require Councils to identify buildings and carry out the cladding assessment which is a change in direction from the previous methodology. More information will be provided to Council once an assessment of the direction is undertaken.</p>
<p><u>Councillor Lesley Furneaux-Cook</u></p> <p>Question 2:</p> <p>Is Council making a submission to the LGNSW/SSROC regarding State Government's review of boarding houses regulations?</p>	<p><u>Group Manager Strategic Planning</u></p> <p>SSROC commissioned a study by UNSW, jointly funded by SSROC Councils including Burwood, which found that certain provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP) are in fact not delivering affordable rental housing options (including boarding rooms) to those who need it in our region. The research found that the ARHSEPP is being used to develop self-contained 'micro-apartments' instead of providing affordable housing for marginal households as per its original intent.</p> <p>Council is currently preparing a Local Housing Strategy as part of the Local Strategic Planning Statement (LSPS). The Local Housing Strategy will review Burwood's affordable housing context, including boarding houses, and identify suitable recommendations for Council.</p> <p>Council Officers are in support of the SSROC study findings, and as such are not planning to make a separate submission to LGNSW/SSROC, and will use the LSPS process to progress strategic planning considerations for affordable rental housing and boarding house developments.</p>
<p><u>Councillor Lesley Furneaux-Cook</u></p> <p>Question 3:</p> <p>Sport Fulltime Grants – Has Council made applications for these grants and, if so, what are</p>	<p><u>Group Manager Assets & Infrastructure</u></p> <p>Council is currently preparing grant applications for the Greater Sydney Sports Facility Fund that closes on 20 September 2019. These are listed as follows:</p> <ul style="list-style-type: none"> ▪ Grant Park All Weather Netball Courts by two

<p>these?</p>	<p>and extension of the Enfield Aquatic Centre Car Park to 77 spaces.</p> <ul style="list-style-type: none"> ▪ Returfing, drainage and irrigation of Henley Park playing fields No. 3 and 4. ▪ Partial funding for the new Learn to Swim pool at the Enfield Aquatic Centre
<p><u>Councillor Heather Crichton</u></p> <p>Question 1:</p> <p>Can Council approach neighbouring Councils to seek support in sharing their library services with our residents during the proposed three month closure period of Burwood Library due to renovations?</p>	<p><u>Group Manager Community, Library, Enfield Aquatic Centre & CHSP/CCSP Services</u></p> <p>Council Officers will contact neighbouring Libraries to advise them of our closure period and to seek their support.</p> <p>Burwood residents are able to access the library services of neighbouring Councils by becoming a member of their Libraries.</p> <p>They can do so at no cost and without having to reside in those areas by visiting the Library(s) that is/are most convenient to them.</p> <p>Council Officers can promote this option in the lead up to and during the closure period and guide customers to the closest Libraries in neighbouring areas.</p>

No Decision – Information Item Only

CONFIDENTIAL ITEMS - CLOSED SESSION

116/19 RESOLVED *(carried unanimously)*

That the meeting move into closed session in order to consider items (ITEM 78/19) Lease of 2 & 2A Comer Street Burwood.

That above item be considered in Closed Session to the exclusion of the press and public in accordance with Section 10A(2) (c) of the Local Government Act, 1993, as the matter involves information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

(Moved Councillor Lesley Furneaux-Cook/Seconded Councillor Heather Crichton)

THERE WERE NO REPRESENTATIVES FROM THE PUBLIC TO ADDRESS THE COUNCIL BEFORE THE RESOLUTION TO MOVE INTO CLOSED SESSION WAS CARRIED.

THE MEETING MOVED INTO CLOSED SESSION AT 6.50PM THE PUBLIC AND PRESS EXCLUDED FROM THE MEETING.

THE MEETING RESUMED IN OPEN SESSION AT 7.05PM

(ITEM 78/19) LEASE OF 2 & 2A COMER STREET BURWOOD

File No: 19/41062

Summary

To seek a determination from the Council in respect to the leasing of 2 and 2A Comer Street Burwood to Montessori Academy Group Pty Ltd (MAG).

Operational Plan Objective

2.3.1 Identify and maintain additional revenue sources to ensure financial sustainability

117/19 RESOLVED *(carried unanimously)*

1. Consent to a five year term with two five year options, with the conditions to include a security bond for 12 months' rent, plus GST, and 25% rent discount for a period of six months to facilitate the fitout of the portion of the premises 2A Comer Street Burwood.
2. Instruct MAG to surrender the existing Lease 1 and make a proposal to enter a new lease to match the agreed lease term of Lease 2 in line with the term granted above.
3. Not to call for tenders pursuant to the exceptions under section 55(1) contained in Section 55(3) of the *Local Government Act 1993* because of the extenuating circumstance which relates to Lease 2.
3. Provide public notice of the proposed lease under Section 47 of the *Local Government Act 1993*.
4. Provide the Acting General Manager with authority to negotiate the terms of the Lease as per Council's resolution and enter into a Lease Agreement under Power of Attorney.
5. That the Acting General Manager seek legal advice with a view to adding specific provisions into the lease which will require Council's consent and approval in the event of the business lease being sold to another provider.

(Moved Councillor Heather Crichton/Seconded Deputy Mayor George Mannah)

Councillor Heather Crichton and Deputy Mayor George Mannah called for a **DIVISION**.

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Faker	
Councillor Mannah	
Councillor Crichton	
Councillor Furneaux-Cook	
Total (4)	Total (0)

MINUTES OF BURWOOD COUNCIL MEETINGS

24 SEPTEMBER 2019

QUESTIONS WITHOUT NOTICE

The following Questions Without Notice were submitted at the Meeting:

Councillor Lesley Furneaux-Cook

Question 1:

Will staff monitor in Duff Street the egress car movements from the new childcare centre on Burwood Road. Currently there are two parking spots opposite the driveway. Duff Street is a very narrow street and is currently two way.

STATEMENT BY CR LESLEY FURNEAUX-COOK

Congratulations to Burwood staff in the yearly Council pick-up. It was done efficiently and cleanly.

This concluded the business of the meeting and Council rose at 7.08pm.

Confirmed this Tuesday 22 October 2019.

MAYOR



(ITEM 74/19) REVISED GENERAL MANAGER'S DELEGATIONS BY EXCEPTION

File No: 19/40711

REPORT BY ACTING GENERAL MANAGER

Summary

To seek the Council's review and approval of the revised General Manager's Delegations by Exception.

Operational Plan Objective

2.1 Community confidence in Council's decision making

2.1.3 Ensure transparency and accountability in decision making

Background

The General Manager's Delegations by Exception were last endorsed by the Council on 6 February 2018. These Delegations detail the functions that the General Manager is not authorised to conduct and therefore there is an assumption that all other activities are within the delegations of the General Manager. At times throughout Council term the Council may review those delegations.

The Act provides the Council with powers, authorities and duties. It is the primary source of Council's functions although there are other legislation, such as but not limited to the:

- *Biodiversity Act 2016*
- *Biosecurity Act 2015*
- *Boarding Houses Act 2012*
- *Companion Animals Act 1998*
- *Environmental Planning and Assessment Act 1979*
- *Food Act 2003*
- *Government Information (Public Access) Act 2009*
- *Impounding Act 1993*
- *Library Act 1939*
- *Privacy and Personal Information Protection Act 1998*
- *Protection of the Environment Operations Act 1997*
- *Public Health Act 2010*
- *Public Interest Disclosures Act 1994*
- *Road Transport Act 2013*
- *Roads Act 1993*
- *Swimming Pools Act 1992*

to impose further functions for Council to administer.

Due to the nature, scope and complexity of the functions Council has to perform, the Act makes provision for the Council to delegate those functions to the General Manager. However, Section 377(1) of the Act provides functions that the Council cannot delegate to the General Manager.

In addition, the General Manager may delegate any of the functions of the General Manager (other than the power of delegation) to any person or body (including another employee of the Council). For accountability purposes a copy of the Delegations Register (including the sub-delegations from the General Manager to Council Officers) will be made available on Council's website.

Proposal

The General Manager's Delegations by Exception have been reviewed to further assist in the area of procurement with speedier outcomes and accountability.

Prescribed Organisations

It is proposed that the General Manager be authorised where Council uses "Prescribed Organisations" that he/she has a delegation to expend \$999,999 without the need to report to Council on the expenditure. Prescribed Organisations under Section 55(3) (a) and 55(3) (g) of the Act and Clause 163(1a) of the *Local Government (General) Regulation 2005* (the Regulation) is where a contract exists with a "Prescribed Organisation" Council is able to use those contracts without the need to tender.

It is also proposed that the General Manager be granted at his/her discretion to refer any expenditure to Council for determination.

Council Resolved Projects

It is also proposed that where Council has approved the project either through a Council resolution or the Operational and Capitals Program that the General Manager cannot expend more than the resolved dollar value.

The General Manager's Delegations by Exception are now submitted to the Council for determination.

Planning or Policy Implications

Once the General Manager's Delegations by Exception have been approved, it will be communicated to Council Officers and published on the website for members of the public.

Financial Implications

Within Council's Operational Budget.

Conclusion

That the Council endorse the General Manager's Delegations by Exception in accordance with Section 377(2) of the *Local Government Act 1993*.

Recommendation(s)

That the Council approves the General Manager's Delegations by Exception in accordance with Section 377 (2) of the *Local Government Act 1993*.

Attachments

1 [u](#) Revised - General Manager's Delegations by Exception

ITEM NUMBER 74/19 - ATTACHMENT 1

Revised - General Manager's Delegations by Exception



REVISED - GENERAL MANAGER'S DELEGATIONS BY EXCEPTION

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Public Document
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Ownership: Governance

ITEM NUMBER 74/19 - ATTACHMENT 1

Revised - General Manager's Delegations by Exception

Purpose

To devolve accountability to the General Manager to ensure the uncertainty associated with limit of authority, responsibility and accountability which will improve Council's service through speedier resolution for the organisation and customer needs.

This document outlines what functions are not delegated to the General Manager and thereby the General Manager has delegation to undertake all other functions.

Delegations

The General Manager does not have the delegation to undertake the following in accordance with Section 377 of the *Local Government Act 1993* (the Act):

1. the appointment of a general manager
2. the making of a rate
3. a determination under section 549 as to the levying of a rate
4. the making of a charge
5. the fixing of a fee
6. the borrowing of money
7. the voting of money for expenditure on its works, services or operations
8. 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)
9. the acceptance of tenders to provide services currently provided by members of staff of the council
10. the adoption of an operational plan under section 405
11. the adoption of a financial statement included in an annual financial report
12. a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6
13. the fixing of an amount or rate for the carrying out by the council of work on private land
14. 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
15. 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*
16. the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194
17. a decision under section 356 to contribute money or otherwise grant financial assistance to persons
18. a decision under section 234 to grant leave of absence to the holder of a civic office

ITEM NUMBER 74/19 - ATTACHMENT 1

Revised - General Manager's Delegations by Exception

- 19. the making of an application, or the giving of a notice, to the Governor or Minister
- 20. this power of delegation
- 21. any function under this or any other Act that is expressly required to be exercised by resolution of the council

Development Application Delegations

The General Manager cannot assess the following Development Applications:

Value	DAs with a value of more than \$5 million but less than \$30 million
Conflict of Interest	DAs for which the applicant or owner is the Council, a Councillor, a member of the Councillor's family, a member of Council Staff, or a State or Federal member of Parliament.
Contentiousness	DAs that receive 10 or more objections/unique submissions from separate households by way of objection. Where a petition is received this is classed as one objection.
Strategic Importance	DAs accompanied by a proposed voluntary planning agreement.
Departure from Development Standards	DAs seeking to depart by more than 10% from a development standard.
High-risk Development Types	<p>DAs associated with a higher risk of corruption, including:</p> <ul style="list-style-type: none"> ▪ Designated development, as set out in the <i>Environmental Planning and Assessment Regulation 2000</i> ▪ Development to which <i>State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development</i> applies ▪ Demolition of heritage items ▪ Development for the purpose of new licenced premises, that will require one of the following liquor licenses: <ul style="list-style-type: none"> – A club licence under the <i>Registered Clubs Act 1976</i> – A hotel (general bar) licence under the <i>Liquor Act 2007</i> – An on-premises licence for public entertainment venues under the <i>Liquor Act 2007</i> ▪ Development for the purpose of sex services premises and restricted premises
Modifications	Modification applications that meet the above criteria.

These matters must be referred to Independent Hearing and Assessment Panel for determination.

ITEM NUMBER 74/19 - ATTACHMENT 1

Revised - General Manager's Delegations by Exception

Expenditure

Prescribed Organisations

The General Manager cannot expend more than \$1,000,000 via a prescribed organisation i.e.: Local Government Procurement (LGP) and Procurement Australia (PA).

The General Manager has the discretion to refer any expenditure to Council for determination.

Council Resolved Projects

Where Council has approved the project either through a Council resolution or the Operational and Capital Works Program the General Manager cannot expend more than the resolved dollar value.

Other Matters

Writing Off Accounts

The General Manager does not have the delegation to approve the writing off of accounts greater than \$5,000. Write offs are reported to Council on an annual basis.

Writing Off Stores and Materials

The General Manager does not have the delegation to approve the write on and off stores and materials greater than \$5,000.