



MINUTES OF THE MEETING OF THE COUNCIL OF BURWOOD held electronically on Tuesday 24 August 2021 commencing at 6:02pm.

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

Mr T Briscese, General Manager
Mr F Zincone, Director Corporate Services
Ms B Endycott, Director Community Life
Mr G El Kazzi, Director City Assets
Ms P Hatzigiannis, Director People and Performance
Mr D Porter, Director City Strategy
Mr W Armitage, Chief Finance Officer
Ms L Hennessey, Group Manager Corporate Planning and Communications
Ms T Whitmarsh, Consultant – Governance Specialist
Ms M Butler, Governance Coordinator

OPENING OF MEETING BY THE MAYOR

The Mayor opened the meeting with a prayer and Acknowledgement of Country.

OPEN FORUM

There was no business for this item.

APOLOGIES

99/21 RESOLVED (*carried unanimously*)

That Councillor Del Duca be granted a leave of absence.

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

DECLARATIONS OF INTEREST

There were no declarations of interests by Councillors.

DECLARATIONS OF POLITICAL DONATIONS

There were no declarations of political interests by Councillors.

CONFIRMATION OF MINUTES

100/21 RESOLVED (*carried unanimously*)

That the minutes of the meeting of the Council Meeting of Burwood held on Tuesday 27 July 2021, as circulated, be confirmed with one correction to the declarations of interest

on page 2 in relation to a property that is rented by Cr Dixit, and that the Minutes, as amended, be signed as a true record of the proceeding of the meeting.

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

MAYORAL MINUTES

(ITEM MM23/21) RESPONSE TO THE ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (INFRASTRUCTURE CONTRIBUTIONS) BILL 2021

File No: 21/37694

Summary

In June 2021 the NSW Government sought to introduce the *Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021*. There has been considerable and wide spread concern regarding the way in which this Bill was introduced, the lack of consultation and limited transparency regarding the details that will govern the implementation of this Bill.

It is my position that this Bill should be withdrawn until such time that the Bill is fully consulted and the associated regulations are also provided for consideration.

The uncertainty regarding the ability for Councils to effectively manage infrastructure contributions is further fueled by the rapid change that is occurring in this area. Councils are being asked to comment in a number of policy, legislative or practice note changes without clear oversight of the ultimate goals or individual implications for Councils. Recent consultations have included:

- October 2020: Consolation on the Productivity Commission Review of Infrastructure Contributions in New South Wales
- February 2021: Practice Note issued in relation to Planning Agreements
- February 2021: Practice Note issued in relation to Section 7.12 fixed development consent levies
- June 2021: *Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021* introduced.

This is a significant period of flux for Council and with limited detail within the proposed Bill it is not possible to make a fair and reasonable assessment of the implications of the new infrastructure contributions mechanisms. The concern is that Burwood Council would be worse off by the changes and left unable to fund much needed community infrastructure. Primary concerns include:

- Changes to the current section 7.12 contributions regime operated by Councils and the replacement with a local levy condition payment.
- The need to ensure any increases to the percentages of local levy conditions proposed for residential development result in increases to the contribution levy for the Burwood Town Centre (currently set at 4%). This is reflecting the continued contribution Burwood Council has made to housing targets and the need to continue to deliver new infrastructure in response to that growth.
- The Land Value Contributions would appear to have merit however the proposed system is complex and likely to result in Council covering any funding shortfall. Further details are needed to understand this system and the associated administrative burden.
- Clarity is needed as to how and when Regional Infrastructure Contributions will be levied. This is to ensure that economic testing associated with proposed strategic land use plans remains current and there is no diversion of funds from local infrastructure contributions.

- The delay in the timing of infrastructure payments needs further assessment, including identification of the community benefit arising from the deferment of such payments.

In short, there should be a comprehensive consultation and review of the entire Infrastructure Contribution and Planning Agreement system. This is to ensure there is alignment between all streams of infrastructure funding sources and that a consistent and contemporary delivery model can be established.

Operational Plan Objective

2.3 Ensure financial sustainability and organisational effectiveness

2.5.1 Provide strong leadership and advocacy on behalf of the community

4.2.2 Provide quality local infrastructure that caters to population growth

101/21

RESOLVED (*carried unanimously*)

- Council notes and receives the contents of this Mayoral Minutes.
- Burwood Council continues to advocate the NSW Government for the withdrawal of the *Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021* until such time that full and proper details are provided and consulted widely through Local Government.
- Burwood Council continues to contribute to the joint advocacy between Sydney Metropolitan Councils and support Local Government NSW, SSROC and the City of Sydney in requesting that NSW Government not proceed with this Bill including the preparation of a joint submission.
- The Mayor and General Manager be authorised to make further representation and submission to NSW Government in relation to the *Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021*.

(ITEM MM24/21) HERITAGE INVESTIGATION - COOPER STREET, STRATHFIELD

File No: 21/38456

Summary

I have been approached by residents in the vicinity of Cooper Street, Strathfield. The matter has been raised as to whether the southern side of Cooper Street, including properties from 2B to 18A, should be subject to an Interim Heritage Order. This would allow further investigations to be completed to confirm the merits of this request and pursue a heritage listing if warranted.

I am also informed that an initial approach by residents to Heritage NSW has identified some matters for further consideration including the streetscape and heritage values of the adjoining Heritage Conservation Area and increasing rarity of Victorian and Federation style housing in the Strathfield and Burwood area.

Taking into account the particular circumstances under which an Interim Heritage Order can be issued, it is requested that the General Manager provide advice as to options to secure a heritage listing status across the identified properties, with a further report to be presented to Council recommending appropriate action.

Operational Plan Objective

- 1.4.4 Promote and celebrate the area's heritage and Indigenous history
- 2.5.1 Provide strong leadership and advocacy on behalf of the community
- 5.4 Activate village precincts and preserve the distinct characters of surrounding residential areas

102/21**RESOLVED** *(carried unanimously)*

1. The General Manager investigate the suitability of obtaining an Interim Heritage Order over properties located at 2B to 18A Cooper Street, Strathfield.
2. The General Manager seek legal advice from Council's solicitors currently acting on Council's behalf in the Land and Environment Court in relation to the development proposed for Cooper Street
3. A letter be sent to residents in the vicinity of Cooper Street, Strathfield informing them of the further investigations being undertaken by Council.
4. A report be brought back to the next available Council meeting outlining available options to pursue an Interim Heritage Order.

GENERAL BUSINESS**(ITEM 58/21) COVID-19 EMERGENCY ADMINISTRATIVE PROVISIONS**

File No: 21/34964

Summary

The COVID-19 pandemic continues to escalate in the face of best endeavours to mitigate its spread and impacts. Agility in dealing with critical decisions around securing and deploying resources is paramount in the current environment.

It is proposed that contingency arrangements for decision making be reestablished to protect the interests of Burwood Council and the community as best as reasonably possible under the circumstances.

Operational Plan Objective

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

103/21**RESOLVED** *(carried unanimously)*

That the contingency arrangement for decision making outside of meetings of elected Council be reinstated until the first council meeting in February 2022, unless terminated by Council before that date as follows:

1. The expenditure authorisation limit of \$1million dollars exercised by the General Manager under the Burwood Council Tendering Policy be raised to \$3million during the caretaker period between the November 2021 council meeting and the first council meeting in February 2022
2. The General Manager and Mayor be jointly empowered to:
 - a. waive, reduce or defer payment obligations for fees or liabilities arising from other debtor dealings of Council (not including statutory charges) if prosecution of these are assessed as giving rise to undue hardship by entities that can reasonably

- demonstrate that they are seriously disadvantaged by the impacts of COVID-19
- b. temporarily modify approved permit conditions relating to operating hours of outdoor dining facilities in the Burwood LGA as well as any companion conditions that may be deemed critical to protecting public health in light of the COVID-19 pandemic – such modifications to be determined in light of best available advice from NSW Health and other public health authorities with jurisdiction in NSW
 - c. temporarily modify hours of service in a Council service area where it can be clearly demonstrated that this is in the interests of public health and safety and / or it is essential for reallocating scarce resources to service areas where there are critical needs to be met as a result of the risks or impacts of COVID-19
3. The General Manager and the Mayor are to provide timely advice to each elected member of Council in relation to any proposal to take action under temporary emergency powers granted to him and give Councillors the opportunity to provide feedback on the proposal
 4. The General Manager will provide:
 - a. a consolidated report at least once a month to all Councillors specifying actions taken under the emergency administrative provisions adopted by Council in relation to decision making outside of meetings of elected Council
 - b. once activation of the current Business Continuity Plan ceases, a consolidated report to the first available meeting of Council that lists all decisions made under emergency provisions
 5. The emergency provisions granted to the General Manager and Mayor as outlined in preceding points 1 through 4 are to apply until the first meeting of the council in February 2022 or until activation of the current Business Continuity Plan is terminated, whichever comes first

This matter will be recommitted to the February 2022 Council meeting should the extension of these provisions be required.

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

(ITEM 61/21) COUNCILLOR REPRESENTATION ON COMMITTEES AND OTHER BODIES - SEPTEMBER 2021 TO DECEMBER 2021

File No: 21/36370

Summary

To determine councillor representation on various community advisory committees, technical and management advisory committees, as well as industry bodies of relevance to the exercise of Council functions, for the duration of the extended council term.

Operational Plan Objective

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

104/21 RESOLVED (carried unanimously)

That Council extends the existing appointments to committees and other bodies until the declaration of the poll for the next general election, due to be held on 4 December 2021.

(Moved Councillor Heather Crichton/Seconded Deputy Mayor Ernest Chan)

(ITEM 62/21) INVESTMENT REPORT AS AT 31 JULY 2021

File No: 21/35205

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

105/21 RESOLVED *(carried unanimously)*

1. That the investment report for 31 July 2021 be received and endorsed.
2. That the Certificate of the Responsible Accounting Officer be received and noted.

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

INFORMATION ITEMS

(ITEM IN19/21) ANSWERS TO QUESTIONS ON NOTICE

File No: 21/35937

Summary

The following Questions on Notice (QoN) were submitted by Councillors. Council Officers responded to the QoN and Councillors were notified on 18 August 2021 of the outcome of the QoN.

Operational Plan Objective

2.1.3 Ensure transparency and accountability in decision making.

This is now submitted as part of the Council Agenda for Public Notification:

Cr Lesley Furneaux-Cook**Question 1**

A resident has raised the ongoing issue of overflowing bins (especially the presence of Ibis) in Flockhart Park. In previous correspondence it was indicated that Council was waiting until grant funding. As this maybe unsuccessful or at the least some time in the future and it is clearly a health issue, is council able to address this issue?

Answer – Director City Assets

Existing waste bins will be replaced with five (5) enclosed larger 240L bins, which will deter birds spreading the bin contents in Flockhart Park. Council staff are currently investigating the most suitable locations for these new bins. It is envisaged that the bins will be installed by the end of September 2021.

Question 2

From time to time, Councillors receive requests for items to be investigated for possible heritage significance. Apart from mayoral minutes or notices of motion, are there more strategic processes available to trigger our heritage experts to give comment or view before the next steps?

Answer – Director City Strategy

The current process for dealing with potential heritage items under threat and making an Interim Heritage Order (IHO) was established via a Council resolution dated 25 May 2010. It requires that a Mayoral Minute or notice of motion be obtained before a 'Preliminary Heritage Assessment' is undertaken. The findings of the preliminary heritage assessment must then be reported back to Council before further action can be undertaken to obtain an IHO.

This 'Preliminary Heritage Assessment', is a legislative requirement under the *Heritage Act 1977*, prior to the issuing of an IHO. It should also be noted that an IHO is only placed if the property "...is being or is likely to be harmed". In the context of a building that is under threat, the current procedure is potentially too lengthy to allow Council to take action in order to be able to obtain an IHO.

There are several possible responses to this issue, which include:

- Reviewing the current procedures regarding obtaining IHO to create a more streamlined process.
- Undertake an LGA-wide or, potentially, area focused approach to proactively identify buildings that are considered appropriate for heritage protection.

Both these items are being investigated, as noted by the Council resolution in relation to 11 Seale Street on the 29th June 2021. The findings will be reported to Council for consideration.

No Decision – Information Item Only**CONFIDENTIAL ITEMS - CLOSED SESSION****106/21 RESOLVED** *(carried unanimously)*

That the meeting move into closed session in order to consider item 59/21 – NSW Government Public Space Legacy Program – Project and Funding Update.

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

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 6.24 PM THE PUBLIC AND PRESS EXCLUDED FROM THE MEETING.

THE MEETING RESUMED IN OPEN SESSION AT 6.35 PM AND THE GENERAL MANAGER REPORTED THE RESOLUTION OF ITEM 59/21.

(ITEM 59/21) NSW GOVERNMENT PUBLIC SPACE LEGACY PROGRAM - PROJECT AND FUNDING UPDATE

File No: 21/37343

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.

107/21 RESOLVED *(carried unanimously)*

1. That Council notes the contents of this report and agrees to the removal of the Burwood Urban Park and Cultural Centre from the Public Spaces Legacy Funding Program.
2. That, if accepted by the NSW Government, Council allocate funding under the Public Spaces Legacy Funding Program to the Enfield Village Revitalisation, Grant Park and Burwood Park projects.
3. That Council authorise the General Manager to commence community consultation on the Grant Park project based on the current concept design and to make further amendments to the design based upon that feedback.
4. That Council authorise the General Manager to prepare a concept design for the Burwood Park project as outlined in this report, commence community consultation and allow further amendments to the design based upon that feedback.
5. That the General Manager provide a further report to Council outlining community feedback on the Grant Park and Burwood Park projects, present final concept designs and project details, prior to proceeding with delivery.

(Moved Councillor George Mannah/Seconded Councillor Heather Crichton)

This concluded the business of the meeting and Council rose at 6.38 pm.

The Minutes of the Ordinary Meeting held on 24 August 2021 were submitted for confirmation by council on 28 September 2021 and were confirmed without amendment by resolution 114/21. The confirmed Minutes were signed by the Mayor, John Faker, after the meeting of 28 September 2021.