



MINUTES OF THE MEETING OF THE COUNCIL OF BURWOOD held in the Conference Room, Level 1, 2 Conder Street, Burwood on Tuesday 13 December 2022 commencing at 6:07pm.

ATTENDANCE Councillor John Faker (Mayor)
Councillor Heather Crichton
Councillor Ned Cutcher
Councillor Pascale Esber – attended via Zoom
Councillor David Hull
Councillor George Mannah (Deputy Mayor)

Mr G El Kazzi, Acting General Manager
Mr F Zincone, Director Corporate Services
Ms J Hoff, Acting Director Community Life
Mr P Brown, Acting Director City Assets
Mr D Porter, Director City Strategy
Ms T Donaldson, Director People & Performance
Ms M Wassef, Executive Manager Place Management & Communication
Ms R Vella, Manager City Planning
Ms T Whitmarsh, Manager Governance & Risk
Ms M Thorogood, Manager Property
Ms M Butler, Governance Coordinator
Ms A Nicholson, Governance Officer

OPENING OF MEETING BY THE MAYOR

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

APOLOGIES AND ATTENDANCE BY AUDIO VISUAL LINK

175/22 RESOLVED

That Cr Hugo Robinson be granted a leave of absence.

(Moved Councillor David Hull/Seconded Councillor Heather Crichton)

176/22 RESOLVED

That Council approves Cr Pascale Esber attending the meeting by audio visual link.

(Moved Councillor David Hull/Seconded Councillor Ned Cutcher)

DECLARATIONS OF INTEREST

Mayor Faker declared a significant non-pecuniary interest in NM4/22 and Item 137/22 as his wife's relative and friend owns a residential tower/units adjoining the Masterplan area. While it is not included in the Masterplan, it is close and he will remove himself.

DECLARATIONS OF POLITICAL DONATIONS

There were no declarations of political interests by Councillors.

CONFIRMATION OF MINUTES**177/22 RESOLVED**

That the minutes of the ordinary meeting of Burwood Council held on Tuesday 22 November 2022, as circulated, be confirmed and signed as a true record of the proceeding of the meeting.

(Moved Councillor Pascale Esber/Seconded Deputy Mayor George Mannah)

For: Cr Faker, Cr Mannah, Cr Crichton, Cr Cutcher, Cr Esber, Cr Hull

Against: Nil

(ITEM MM17/22) CHANGES TO NSW GOVERNMENT LEGISLATION IMPACTING ON MANAGEMENT OF ABANDONED ITEMS FOR BURWOOD COUNCIL

File No: 22/46089

Summary

On 1 November 2022 the NSW *Impounding Act 1993* was repealed and replaced by the *Public Spaces (Unattended Property) Act 2021* and accompanying regulations. While I believe the new laws have been promoted by the NSW Government to enable stronger enforcement powers for local authorities, it in fact reduces our capacity as a Council to directly impound unattended items, in turn reducing the incentive for owners to proactively seek and collect these articles.

The new legislation is expected to most significantly impact the management of abandoned shopping trolleys, the most common impounded item in our Local Government Area (LGA) with the largest effect on our community.

For several years Burwood Council staff have been working to proactively reduce the volume of trolleys in public domain areas and increasing their collection patrols. Unfortunately, the general response received from trolley owners has not been supportive, with trolley collection rates not improving resulting in significant hazards and eyesores amongst our busy streets.

As a consequence, in 2019 Council staff conducted a full examination of the *Impounding Act 1993*, developing a robust impounding, notification and administration fee process, supported by legislation at the time. The process for management of abandoned trolleys under the previous legislation included:

- Tagging of the abandoned trolley on public land
- Collection and impounding of the trolley
- Notice of impoundment sent to the identified trolley owner
- Charging an administration and impounding fee as per Council's adopted fees and charges
- Release of trolleys only following receipt of payment for all relevant fees and charges

Notably, shopping trolley owners were notified only after collection and impounding. This provided motivation for owners to take proactive measures to reduce trolley dumping, such as an active patrol schedule to identify and recover abandoned items. This process led to a significant reduction in trolleys abandoned or dumped in our public spaces.

Under the new legislation, Council staff are now required to give significant notice prior to impounding abandoned items, even when considered dangerous or an obstacle. The standard notice period under the new legislation is 4 days during which Council staff are not permitted to take possession of the abandoned item or remove it to Council's storage facilities.

If an abandoned item is causing an obstruction or risk then the notice period for response is 3 hours, unless notice is given after 8pm where it can then remain unattended to until 7am the next day regardless of the risk caused. Even where trolleys are an obstacle, Council staff are again not permitted to take these items to our facilities, but can only move to the item somewhere else in the same 'general area', which may still be an eyesore and reduce visual amenity on the streetscapes and parks we take such great pride in.

Further, the new Regulations specify that all trolley owners are now exempt from any fines related to impounding for 6 months from commencement of the legislation on 1 December 2022 until 1 May 2023.

My concern is that the changes to legislation will result in trolley owners being less likely to proactively collect shopping trolleys, as they can now wait until Council patrols are undertaken and they are notified of items prior to undertaking collections. As a result, the cost for patrolling and finding abandoned trolleys may be pushed from these organisations onto Council and its ratepayers.

Promisingly, the new regulations provide some new powers to require a draft plan of management from responsible persons such as trolley owners. However, this is not a requirement of the Act and Council must justify the implementation of such plan. As such, I am proposing that the General Manager further investigate options to require and enforce trolley management by trolley owners through these plans of management.

Operational Plan Objective

A.90 Deliver services to address illegal dumping, graffiti and abandoned trolleys in public spaces
C.9 Safe, clean and activated streets, centres and public places are enjoyed by people day and night

178/22 RESOLVED

1. The General Manager undertake an investigation on the impacts of the new legislation, collect data on abandoned items and identify options for the enforcement of trolley management by trolley owners such as through Plans of Management.
2. The Mayor writes to the NSW Government, media agencies and other key stakeholders on the impact of this new legislation on Burwood Council.

For: Cr Faker, Cr Mannah, Cr Crichton, Cr Cutcher, Cr Esber, Cr Hull

Against: Nil

(ITEM MM18/22) RECOGNISING OUR LOCAL HERITAGE

File No: 22/45713

Summary

The Burwood municipality is rich in local heritage and culture and I have long sought to promote the significance of its history.

In June 2020, Council resolved that the General Manager investigate a number of initiatives to honour our local heritage including new heritage trails and the development of *Wayfinding and Signage Guidelines*. The Guidelines provide information on the planning, design and installation of signage across the Burwood Local Government Area as well as direction in respect to heritage

signage and heritage interpretation.

While important work has commenced in this space, it is vital that we continue to explore further opportunities to celebrate the history and heritage of Burwood, making this information more accessible to our community.

In light of this, I recommend that the General Manager investigate opportunities to recognise places of heritage significance in Burwood. Recognition could be in the form of footpath or signage plaques for heritage buildings and homes or historically significant points of interest and should act to orient, direct, engage and enhance people's connection to place.

Operational Plan Objective

A.16 Deliver initiatives that promote and improve access to local heritage

179/22 RESOLVED:

That the General Manager investigate opportunities to recognise places of heritage significance, and return with a report detailing options for delivery including suitable locations at the March 2023 Council meeting.

For: Cr Faker, Cr Mannah, Cr Crichton, Cr Cutcher, Cr Esber, Cr Hull

Against: Nil

(ITEM MM19/22) ISSUING OF TEMPORARY VISITOR PARKING PERMITS

File No: 22/47666

Summary

In order to facilitate Council's daily business with external stakeholders visiting the Burwood Local Government Area it is proposed to make provisions within Council's Permit Parking Scheme policy to allow for the issuing of temporary visitor parking permits.

Council's current Permit Parking Scheme Policy restricts the provision of Visitor permits to residents only to allow eligible visitors such as carers, relatives or friends to park on-street in certain locations without restriction or charge. These permits are only able to be used in Resident Parking Scheme Areas which are set by Council and sign posted in residential streets.

In an effort to further support visitor access to Burwood, particularly in instances where a voluntary service is being provide to Council, I recommend the General Manager investigate the development of a new permit type which will allow visitors to park in locations corresponding to their destination such as the Library and Community Hub or local parks.

While these permits do not guarantee the holder a parking space, they will allow the vehicle to be parked within a nominated area longer than the signposted time limit and remove the need to purchase a ticket from Council's parking meters. Importantly, the permits do not provide exemption from parking within 'No Stopping' 'No Parking' 'Bus Zone' 'Loading Zone' or other restricted areas where the vehicle would not normally be permitted to park under the Road Rules, but do however, in unique circumstances help increase community access to Burwood whereby a person is offering a service or support to Council.

As such, I recommend that Council's Permit Parking Scheme Policy be reviewed, with a draft policy to be reported to Council in March 2023 outlining the provision for Temporary Visitor Permits.

In the interim, it is proposed that volunteers who are providing a service for Council at 2 Conder Street Burwood in the proposed newly created parking area 'L' which will be associated with the Burwood Library Car Park be supported through the provision of temporary visitor parking permits. Further to this, in unique circumstances whereby Council issues invitations to Government officials, visitor parking permits may also be issued in alignment with the associated area of visitation. The permits may be requested by members of the Executive Team and may be approved at the discretion of the General Manager on a case by case basis.

I trust that this provision of assistance will continue to promote a safe, accessible and supported community.

Operational Plan Objective

- C.1.2 Facilitate equitable access to services and facilities at all stages of life
- P.1 Encourage, support and recognise individual and organisational community contributions
- P.2 Provide and support initiatives which facilitate an inclusive community and respond to community needs.

180/22 RESOLVED

1. That the General Manager be provided delegation to approve Temporary Permits in the interim for volunteers who provide a service to Council at 2 Conder Street Burwood as well as until such time as the Policy has been formally adopted by Council.
2. That the General Manager be provided with delegation to approve Temporary Permits to elected Government officials where an invitation has been issued by Council to attend a facility or Council run public event, with permits to be issued in line with the associated area of visitation.
3. That Council implement a new parking area associated with the Burwood Library Car Park to be known as 'Parking Area L'.
4. That Council's Permit Parking Scheme Policy be reviewed, with a draft policy to be reported to Council in March 2023 outlining the provision for Temporary Visitor Permits.

For: Cr Faker, Cr Mannah, Cr Crichton, Cr Esber, Cr Cutcher, Cr Hull

Against: Nil

GENERAL BUSINESS

(ITEM 130/22) DRAFT COMMUNITY ENGAGEMENT STRATEGY

File No: 22/41145

Summary

The Draft Community Engagement Strategy outlines Council's commitment and approach to involving our community in decision-making. The strategy is designed to improve and build on Council's engagement and communications activities, providing a common language and shared framework for all. The draft Strategy also incorporates the current Community Participation Plan (CPP), which includes the requirements for consultation as part of the planning framework.

Endorsement is sought from Council to place the Draft Strategy on public exhibition.

Operational Plan Objective

- C.10.2 Provide opportunity for engagement with the community to inform Council's decision-making
- A.100 Prepare Council's Community Engagement Strategy in accordance with the Integrated Planning and Reporting Legislation

181/22 RESOLVED

1. That Council endorse the Draft Community Engagement Strategy to be placed on public exhibition for a period of 28 days between 14 December 2022 to 1 February 2023.
2. That a report be tabled to the 14 February 2023 Council meeting for approval of the Community Engagement Strategy following the period of public exhibition.
3. In accordance with Section 16 of the Environmental Planning and Assessment Regulation 2021, a notice be published on Participate Burwood notifying of Council's intent to repeal Part 7 - Development Process Matters of the Burwood Development Control Plan and the reasons for the repeal.

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

For: Cr Faker, Cr Mannah, Cr Crichton, Cr Esber

Against: Cr Cutcher, Cr Hull

(ITEM 131/22) POST EXHIBITION REPORT - PUBLIC ART IN PRIVATE DEVELOPMENTS AND ON HOARDINGS

File No: 22/39336

Summary

This report provides an overview of the exhibition of the amendments to Section 5.11 of the Burwood DCP with respect to the public art provisions in private developments. The amendments to the DCP were exhibited concurrently with the draft Burwood Public Art Guidelines for Developers. No submissions were received and it is proposed that both the DCP amendment and the Guidelines be adopted.

This report also responds to the resolution resulting from the Mayoral Minute in August 2022 with respect to public art on site hoardings. An investigation has been undertaken and it is proposed to amend Council's Hoarding Policy to update the provisions relating to public art on hoardings to ensure alignment with the DCP and the Guidelines.

Operational Plan Objective

- A.32 Undertake a comprehensive review of the Development Control Plan (DCP) 2013 and prepare a user friendly and interactive DCP
- P.37 Plan for and implement public art programs that support local identity, culture and connection
- 2.1.3 Ensure transparency and accountability in decision making

182/22 RESOLVED

1. That Council, pursuant to Section 3.43 of the Environmental Planning & Assessment Act and in accordance with Clause 14 of the Environmental Planning & Assessment Regulation 2021, adopt the amendments to Section 5.11 Public Art in Private Developments in the Burwood Development Control Plan (BDCP) as outlined in Attachment 1 to this report.

2. That Council adopt the Burwood Public Art Guidelines for Developers as included at Attachment 2 and make this information available on Council's website.
3. That the General Manager be endorsed to make minor modifications to any numerical, typographical, interpretation and formatting errors, if required, in the finalisation of the amendment to Section 5.11 of the Burwood DCP.
4. That Council give public notice of the decision to approve the amendments to Burwood DCP, on its website within 28 days in accordance with Clause 14(2) of the Environmental Planning and Assessment Regulation 2021.
5. That the amendments to the Hoarding Policy, as outlined in Attachment 3 be placed on public exhibition for a minimum period of 28 days and that a further report be brought back to Council following the exhibition period.

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

For: Cr Faker, Cr Mannah, Cr Crichton, Cr Cutcher, Cr Esber, Cr Hull

Against: Nil

(ITEM 132/22) POWER OF ATTORNEY FOR THE GENERAL MANAGER - REPORT FOR PERIOD SEPTEMBER 2021 TO NOVEMBER 2022

File No: 22/43415

Summary

At the Council Meeting of 28 May 2019, Council resolved to delegate to Tommaso Briscese a general Power of Attorney.

The resolution included a request for a report to Council on all documents signed under the general Power of Attorney.

Council notes that the following documents were signed under Power of Attorney between September 2021 and November 2022:

- Electricity Supply Agreement with ZEN Energy Retail Pty Ltd signed by the General Manager
- Voluntary Planning Agreement – 1 Lyons Street, Strathfield: Payment by owner/developer of a monetary contribution to Council in exchange for 4 deficient on-site parking spaces
- Voluntary Planning Agreement – 21-23 Belmore Street, Burwood: Payment by owner/developer of a monetary contribution to Council in exchange for 38 on-site visitor parking spaces.

Operational Plan Objective

P.49 Ensure transparency and accountability in decision making.

183/22 RESOLVED

That Council receives and notes this report.

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

For: Cr Faker, Cr Mannah, Cr Crichton, Cr Cutcher, Cr Esber, Cr Hull

Against: Nil

(ITEM 133/22) MAYORAL CIVIC RECOGNITION, CONDOLENCES AND SMALL DONATIONS - PERIOD ENDING 28 NOVEMBER 2022

File No: 22/45901

Summary

The Civic Recognition, Condolences and Small Donations Policy was reviewed by Council and adopted on 28 June 2022. As part of the Policy requirements, a list of donations and gifts made is to be reported to Council on a six monthly basis. The attached table details all the Discretionary Grants and Gifts for the period 1 July 2022 to 28 November 2022.

Operational Plan Objective

- C.10 A well informed community active in civic life, local planning and decision making.
C.11.1 Conduct Council business with transparency, accountability, compliance and probity that ensures community confidence in decision making.

184/22 RESOLVED

That Council receive and note this report.

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

For: Cr Faker, Cr Mannah, Cr Crichton, Cr Cutcher, Cr Esber, Cr Hull

Against: Nil

(ITEM 134/22) AUDIT, RISK AND IMPROVEMENT COMMITTEE - ANNUAL REPORT

File No: 22/45284

Summary

To brief Council and the public on activities of the Audit, Risk & Improvement Committee (ARIC) for the period October 2021 – November 2022.

Operational Plan Objective

- A.107 Convene the Audit, Risk and Improvement Committee (ARIC) to provide independent oversight and support continuous improvement

185/22 RESOLVED

That Council receive and note the ARIC annual report at Attachment 1.

(Moved Councillor Ned Cutcher/Seconded Councillor Heather Crichton)

For: Cr Faker, Cr Mannah, Cr Crichton, Cr Cutcher, Cr Esber, Cr Hull

Against: Nil

(ITEM 135/22) DRAFT INTERNAL AUDIT CHARTER - ADOPTION

File No: 22/45903

Summary

This report proposes Council adopts an Internal Audit Charter to ensure Council will have in place an internal audit function that meets the requirements of the Risk Management and Internal Audit Framework that will soon become mandatory for all local councils.

Operational Plan Objective

P.48 Establish a probity, policy and procedures framework that supports a responsive and compliant Council

A.107 Convene the Audit, Risk and Improvement Committee (ARIC) to provide independent oversight and support continuous improvement

186/22 RESOLVED

That Council adopts the Internal Audit Charter that appears as Attachment 1 to this report.

(Moved Deputy Mayor George Mannah/Seconded Councillor Pascale Esber)

For: Cr Faker, Cr Mannah, Cr Crichton, Cr Cutcher, Cr Esber, Cr Hull

Against: Nil

(ITEM 136/22) ANSWERS TO QUESTIONS ON NOTICE

File No: 22/46054

Summary

The following Questions on Notice were submitted by Councillor Ned Cutcher.

Operational Plan Objective

A.110 Deliver a progressive and accountable framework to support Councillors and Burwood Local Planning Panel

P.49 Ensure transparency and accountability in decision making

187/22 RESOLVED

That Council receive and note this report.

(Moved Councillor Pascale Esber/Seconded Deputy Mayor George Mannah)

For: Cr Faker, Cr Mannah, Cr Crichton, Cr Cutcher, Cr Esber, Cr Hull

Against: Nil

REPORTS OF COMMITTEES**(ITEM RC15/22) SUSTAINABILITY AND ENVIRONMENT ADVISORY COMMITTEE MINUTES - 15 NOVEMBER 2022**

File No: 22/45913

Summary

The report presents the Minutes of the Sustainability and Environment Advisory Committee (SEAC) meeting held on Tuesday 15 November 2022.

Operational Plan Objective

- 1.2 A healthy and active lifestyle where people experience a sense of connection and wellbeing
- 3.2 People and infrastructure contribute positively to the environment and respond to climate change
 - 3.2.1 Deliver efficiency and innovation in the use of resources

188/22 RESOLVED

That:

1. Council receives and notes the minutes of the Sustainability and Environment Advisory Committee held on 15 November 2022, as included in Attachment 2.
2. Council notes that, due to an oversight, an invitation was not extended to Cr Cutcher and Cr Mannah and, as a result, they did not attend and Council apologises for the oversight.

(Moved Councillor Ned Cutcher/Seconded Deputy Mayor George Mannah)

For: Cr Faker, Cr Mannah, Cr Crichton, Cr Cutcher, Cr Esber, Cr Hull

Against: Nil

Cr John Faker left the meeting, the time being 06:38 pm

Cr George Mannah took the chair at 6:38 pm

PROCEDURAL MOTION**189/22 RESOLVED**

That Council enter into closed session to accommodate a fully informed debate on NM4/22 by reason of the following:

1. 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;
2. Section 10A(2)(d)(ii) of the *Local Government Act 1993* as the matter involves commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a competitor of the council; and
3. Section 10A(2)(f) of the *Local Government Act 1993* as the matter involves matters affecting the security of the council, councillors, council staff or council property.

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

For: Cr Mannah, Cr Crichton, Cr Esber, Cr Hull
Against: Cr Cutcher

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 6:43 pm and the public and press were excluded from the meeting.

The meeting resumed in Open Session at 6:51 pm and the General Manager read the resolution from the Closed Meeting.

CONFIDENTIAL ITEMS - CLOSED SESSION

(ITEM 137/22) ENDORSEMENT OF CONCEPT MASTER PLAN

File No: 22/46085

That above item be considered in Closed Session to the exclusion of the press and public in accordance with Section 10A(2) (c) (f) 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; AND matters affecting the security of the Council, Councillors, Council staff or Council property.

190/22 RESOLVED

That:

1. The Draft Concept Master Plan Document shown as Attachment 1 to this report be endorsed for the purposes of public consultation and the General Manager be authorised to place the document on public exhibition for a period not less than 28 days.
2. The General Manager be authorised to prepare support information, sales memorandum, due diligence material and heads of terms for the Property Development Agreement structure to support the future sales process.
3. A further report be brought back to Council to provide an update on findings from public consultation and provide a brief on the proposed sales process and secure a final endorsement to proceed with the sales process.

(Moved Councillor Pascale Esber/Seconded Councillor Heather Crichton)

For: Cr Mannah, Cr Crichton, Cr Esber
Against: Cr Cutcher, Cr Hull

This concluded the business of the meeting and Council rose at 6:53pm.

The Minutes of the Ordinary Meeting held on 13 December 2022 were submitted for confirmation by council on 14 February 2023 and were confirmed without amendment by resolution 1/23. The confirmed Minutes were signed by the Mayor, John Faker, at the meeting of 14 February 2023.