

AUBURN CITY COUNCIL

REPORTS TO THE
EXTRAORDINARY MEETING OF COUNCIL
TO BE HELD IN THE COUNCIL CHAMBERS
CIVIC PLACE, 1 SUSAN STREET, AUBURN
ON WEDNESDAY, JANUARY 27, 2016
COMMENCING AT 5.00PM

INDEX

Receipt of Apologies

001/16	Calling of Meeting	2
002/16	Disclosure of Interests	3
003/16	Notice of Business - Submission to Boundaries Commission regarding Proposed Auburn City Council Merger.....	4
004/16	Submission to Boundaries Commission regarding Proposed Mergers.....	5
005/16	Public Inquiry into Auburn City Council - Notification by Minister	9

AUBURN CITY COUNCIL

January 27, 2016
To the Extraordinary Meeting of Council

General Manager's Report

001/16 Calling of Meeting

C-28-02/03 MB : MW

SUMMARY

This meeting has been called pursuant to Clause 8 of Council's Code of Meeting Practice in response to the joint request from Councillors Lam, Oldfield, Simms, Yang and Zraika presented at the Councillor Briefing on January 20, 2016, formally requesting an Extraordinary Meeting of Council be held to consider the matter dealt with at that Councillor Briefing.

An additional Item has been added to the Business Paper in light of recent proceedings affecting Council.

RECOMMENDATION

That the report be received and the information therein noted.

AUBURN CITY COUNCIL

January 27, 2016
To the Extraordinary Meeting of Council

General Manager's Report

002/16 Disclosure of Interests

C-27-08/03 MB : MW

The provisions of Chapter 14 of the Local Government Act, 1993 regulate the way in which Councillors and nominated staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public trust.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest and the reasons for declaring such interest must be disclosed as soon as practicable after the start of the meeting.

As members are aware, the provisions of the Local Government Act restrict any member who has declared a pecuniary interest in any matter from participating in the discussions or voting on that matter and further require that the member vacate the Chamber.

Council's Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The Code also provides for a number of ways in which a member may manage non pecuniary conflicts of interest.

RECOMMENDATION

That where necessary any Councillor now disclose any interest and the reason for declaring such interest in the matters under consideration by Council at this meeting.

AUBURN CITY COUNCIL

January 27, 2016
To the Extraordinary Meeting of Council

General Manager's Report

**003/16 Notice of Business - Submission to Boundaries Commission
regarding Proposed Auburn City Council Merger**

L-29-13 MB : MW

Councillor Campbell, by notification of January 8, 2016, advised of his intention to move as follows:

“That Council prepare a submission to the Boundaries Commission based on the following points:

- ***The Auburn Local Government Area (LGA) must remain intact whether or not it is merged with a neighbouring LGA.***
- ***Auburn's most important employment lands are north of the M4 Motorway.***
- ***North of the M4 Motorway accounts for one-third of Auburn's rates but only 13% of its population.***
- ***A stand-alone Auburn City Council would need to raise residential rates by 47% to compensate for the loss of the area north of the M4 Motorway.***
- ***If Auburn, stripped of its rate income from the Silverwater area, were to merge with Holroyd, the new entity would be severely financially handicapped - set up to fail. The populations of Holroyd City Council and the Woodville Ward of Parramatta City Council would have to suffer a steep rate rise (as would Auburn) to subsidise an impoverished Auburn.***
- ***The State Government opposition (and the community and councillors) would prevent the compensatory rate rise.***
- ***Auburn, intact and unmerged, is fit for the future - in good financial shape with the third lowest residential rates in the metropolitan area after only Sydney City and North Sydney councils.”***

AUBURN CITY COUNCIL

January 27, 2016

Deputy General Manager
Direct's Report

To the Extraordinary Meeting of Council

004/16 Submission to Boundaries Commission regarding Proposed Mergers

L-29-13

BE : MW

LINK TO INTEGRATED PLANNING AND REPORTING FRAMEWORK

Operational Plan Code	Relationship to Community Strategic Plan	Relationship to Operational Plan
4a.1	Effective and accountable Governance.	Represent Council at State, Agency Workshops, Information Sessions and Forums.

SUMMARY

This report provides information on the Minister for Local Government's notification of public inquiry into Council Merger Proposals and seeks to formalize a preferred position to enable Council to prepare its submission and present at each public inquiry affecting Auburn City Council.

RECOMMENDATION

1. ***That Council adopt a position of support for the Merger Proposals of the NSW Government with the following amendments being applied to the Merger Proposal concerning Auburn, Holroyd and Parramatta:***
 - a) ***The current Auburn Local Government Area remains intact with the existing Council area North of the M4 remaining as part of the Merger Proposal.***
 - b) ***An additional three minor boundary adjustments are made along the northern and eastern proposed boundary lines.***
2. ***That Council adopt one of the following options as the electoral framework of the new Merger Proposals to maximise local representation of the community:***
 - a) ***A total of 11 Councillors made up of 5 wards of 2 Councillors with a popularly elected Mayor; or***
 - b) ***A total of 15 Councillors made up of 5 wards of 3 Councillors with a Councillor elected Mayor for a 2 year term.***
3. ***That the General Manager be authorised to present Council's position at each public inquiry affecting Auburn City Council on February 2 and February 4, 2016.***
4. ***That the General Manager be authorised to finalise and lodge the Council submission to the Council Boundaries Review Commission by February 28, 2016.***
5. ***That in the event that the NSW Government not proceed with the implementation of structural reform in the Local Government sector that Council reverts to its status quo position of 'stand alone.'***

January 27, 2016

Deputy General Manager
Direct's Report

To the Extraordinary Meeting of Council

Submission to Boundaries Commission regarding Proposed Mergers (cont'd)

REPORT

Background

On January 6, 2016 the Minister for Local Government issued a notification of public inquiry into 35 proposals to amalgamate or alter the boundaries of local government areas across NSW.

The function of examining and reporting on the 35 Merger Proposals has been delegated to 18 Delegates. Each Delegate will examine and report on Merger Proposals and will refer their final report to the Minister for Local Government as well as the Boundaries Commission.

The NSW Government has announced two Merger Proposals affecting Auburn City Council, these include:

- Auburn (Part), Holroyd (Part), Parramatta (Part); and
- Parramatta (Part), Auburn (Part), the Hills (Part), Hornsby (Part), Holroyd (Part)

Copies of each Merger Proposal are enclosed herein as attachments.

The examination of each proposal has now commenced and submissions are invited from Councils and members of the public by 5pm, Sunday February 28, 2016. The NSW Government has also provided notification that it will hold public inquiries into the two proposals relating to the Auburn Local Government Area. Council has been invited to speak at each public inquiry relating to the Auburn Local Government Area. The public inquiry is part of the examination and reporting process conducted by the Delegate and provides an opportunity for Council and members of the public to express their opinions on Merger Proposals to the Delegate.

Two Councillor Briefings were held on January 13 and January 20, 2016 to assist Council to develop a preferred position on the Merger Proposals affecting the Auburn Local Government Area. This report seeks a Council resolution to adopt a preferred position to enable Council to finalise its submission and present at each public inquiry.

Preferred Position

It is acknowledged that Council's preferred position on amalgamation continues to be to stand alone, however, in the context of the Merger Proposals referred in January 2016 by the Minister for Local Government for examination and report under the *Local Government Act*, this report recommends Council proceed with the following position:

Financial Considerations

Council has reviewed the financial impacts of each Merger Proposal based on data included within the Merger Proposals prepared by KPMG for the NSW Government in January 2016.

Council has identified anomalies that affect the population, operating revenue, operating profit and asset base data included in each Merger Proposal affecting Auburn City. The impact of these anomalies could be substantial in relation to the current proposed financial benefits identified in the Merger Proposals.

January 27, 2016

Deputy General Manager
Direct's Report

To the Extraordinary Meeting of Council

Submission to Boundaries Commission regarding Proposed Mergers (cont'd)

Council is confident that with some boundary changes, the Merger Proposals will remain financially viable. Moreover, retaining the current Auburn City Council land north of the M4 as part of the Auburn (Part), Holroyd (Part) and Parramatta (Part) Merger Proposal offers an improved financial position for this proposed Council.

Contributing factors to this position include:

- Auburn City has the lowest average residential rates in Sydney;
- Business rates are 53% of the total current rates base of Auburn City and are predominately in the North M4 region; and
- Auburn City (South M4) is socially and financially disadvantaged, and Council provides substantial services to assist the community and improve its profile of relative disadvantage.

Considering these factors and the proposed rates freeze for a period of four years, the proposed Council Merger of Auburn (Part), Holroyd (Part) and Parramatta (Part) will be financially disadvantaged without boundary changes.

Council Boundary Lines

Consistent with the above financial analysis and to ensure the current Auburn Local Government Area remains intact, it is proposed that Council adopt a whole of current Auburn Local Government Area approach in relation to the Merger Proposal concerning Auburn (Part), Holroyd (Part), and Parramatta (Part).

An additional three minor boundary adjustments are also proposed, including:

- Extending the northern boundary line at Granville to the M4 motorway to provide a consistent and logical northern boundary;
- Extending two sections of the eastern boundary line to Centenary Drive to rectify historical anomalies and create a stronger identifiable eastern boundary line.

Electoral Framework and Representation

In relation to both Merger Proposals, the ratio of residents to elected Councillors will be increased for current Auburn City residents. To maximise local representation of the community and promote an efficient electoral framework, the following options are proposed for Council's consideration:

	Number of Councillors	Council Structure
OPTION 1	11 Councillors	5 wards of 2 Councillors with a popularly elected Mayor.
OPTION 2	15 Councillors	5 wards of 3 Councillors with a Councillor elected Mayor for a 2 year term.

Council's submission will also include additional considerations relating to communities of interest, employment of staff, services and facilities where data is available.

January 27, 2016

Deputy General Manager
Direct's Report

To the Extraordinary Meeting of Council

Submission to Boundaries Commission regarding Proposed Mergers (cont'd)

It should be noted that Council cannot undertake community consultation or utilise further resources to oppose or support a Merger Proposal. Community engagement with respect to the Merger Proposals is being undertaken by the Delegate and the Boundaries Commission.

ATTACHMENTS (to be circulated to Councillors under separate cover)

1. Merger Proposal: Auburn City Council (Part), Holroyd City Council (Part), Parramatta City Council (Part) - T002779/2016
2. Merger Proposal: Parramatta City Council (Part), Auburn City Council (Part), the Hills Shire Council (Part), Hornsby City Council (Part), Holroyd City Council (Part) - T006612/2016

AUBURN CITY COUNCIL

January 27, 2016

Executive Manager Corporate's
Report

To the Extraordinary Meeting of Council

005/16 Public Inquiry into Auburn City Council - Notification by Minister

A-44-28

BC : MW

LINK TO INTEGRATED PLANNING AND REPORTING FRAMEWORK

Operational Plan Code	Relationship to Community Strategic Plan	Relationship to Operational Plan
4a.5	Effective and accountable governance	Provide support to civic leadership

SUMMARY

Council's formal consideration is sought regarding the notification by the Minister for Local Government of a "Public Inquiry" into the Council.

RECOMMENDATION

That Council make a submission to the Minister for Local Government seeking that Council not be suspended during the period of the Public Inquiry into Auburn City Council under Section 438U of the Local Government Act, 1993.

REPORT

The Hon. Paul Toole MP Minister for Local Government, by letter of January 21, 2016, notified of his appointment of Mr Richard Beasley SC as a Commissioner to conduct a Public Inquiry under Section 438U of the Local Government Act, 1993 (the Act) into Auburn City Council.

The Inquiry is to report on the following matters relating to the Council:-

- 1. Whether the Council and its elected representatives have complied with applicable laws, Council's adopted Code of Conduct, the Procedures for the Administration of the Code of Conduct, relevant planning legislation and Council's administrative rules and policies and have fulfilled its and their legislative duties, powers and functions;*
- 2. Whether the relationships between councillors are conducted properly to ensure that individuals do not receive favourable treatment from decisions made by the elected Council or by Council staff,*
- 3. Whether the governing body commands the community's confidence, and will continue to be in a position, to direct and control the affairs of Council in accordance with the Local Government Act 1993, so that Council may fulfill the charter, provisions and intent of the Local Government Act 1993 and otherwise fulfill its statutory functions, and*
- 4. Any other matters that warrant inquiry, particularly those that may impact on the effective administration of Council's functions and responsibilities or the community's confidence in the Council being able to do so.*

January 27, 2016

Executive Manager Corporate's
Report

To the Extraordinary Meeting of Council

Public Inquiry into Auburn City Council - Notification by Minister (cont'd)

The Minister further notified that it was his intention to suspend the Council while the Public Inquiry was held. His reasons for the proposed suspension were:-

- given that the terms of reference for the public inquiry will examine the integrity of Council's statutory and strategic planning decisions, it is in the public interest to remove the councillors to ensure that no further binding decisions are made during the term of the public inquiry,
- the councillors' continuation of their civic function will result in the councillors having access to Council staff and records which may frustrate the public inquiry, and
- there is particular concern about Council's actions in renegotiating the terms of the sale of Council land at 13 John Street Auburn. The councillors' continuation of their civic function would permit the councillors to continue making decision which the public inquiry has been established to examine. This could potentially reduce the effectiveness of the public inquiry. It may also result in further adverse media coverage and thereby further reduce the public confidence in the Council.

He invited the Council to make a submission in respect to the proposed suspension by no later than 14 days from the date of his notice, that is by February 4, 2016.

The Minister further stated that he would consider all such submissions before determining whether or not to suspend the Council.

The members of the Council who were available on the day, were briefed informally on the Ministerial notification and it was indicated that action be put in place to:-

- make a submission to the Minister seeking that the Council not be suspended.
- undertake to restrict any decisions by the Council during the period of the Inquiry to matters not including Planning issues and the proposed sale of the Council property at 13 John Street, Lidcombe.
- Otherwise cooperate with the Public Inquiry by the Commissioner.

The matter is therefore listed as an item for the Extraordinary Meeting so that Council might formalise the action as indicated above, and make any other determination that it might desire.

By way of additional information, it is noted that the Minister's proposed action to suspend Council is authorised by Section 438I of the Act, and pursuant to Section 438L, the effect of suspension of councillors include:-

- (2) A person, while suspended from civic office under this section:
 - (a) is not entitled to exercise any of the functions of the civic office, and
 - (b) is not entitled to any fee or other remuneration, or to the payment of expenses or to the use of any council facilities, to which the person would otherwise be entitled as the holder of the civic office.

January 27, 2016

Executive Manager Corporate's
Report

To the Extraordinary Meeting of Council

Public Inquiry into Auburn City Council - Notification by Minister (cont'd)

In relation to the Public Inquiry, it is noted that Section 438U provides for the Commissioner to have the powers, authorities, protections and immunities conferred by Division 1 of Part 2 of the Royal Commissions Act 1923 and that, the provisions of section 24 of the Local Court Act 2007 apply to any witness or person summoned by or appearing in the same way as it applies to witnesses and persons in proceedings under that Act.

At this stage it is proposed that a draft of a possible submission will be provided to Councillors prior to the meeting.