



NSW Bridge Association Limited

The home of bridge in Sydney and NSW

ACN 000 438 648

Extraordinary General Meeting of the NSW Bridge Association Limited

All voting members of the New South Wales Bridge Association Limited (the NSWBA) have been notified of an Extraordinary General Meeting (EGM) to be held on Monday 6th November at 6:00pm at Level 1, 162 Goulburn Street, East Sydney and remotely by Zoom.

Members are advised that pursuant to clause 14.6 of the Constitution:

- the EGM may not consider business other than that set out in the notice of the meeting, that being the two Motions set out below; and
- any motion at an EGM is a Special Resolution requiring 75% of the votes cast in order to be carried.

Following consultation with NSWBA legal Counsel, the State Proxy Board, and the Club Proxy Board, the **majority of Councillors recommend that members Vote NO for Motion 1 and Vote NO for Motion 2.** Keep reading to understand why.

MOTION 1 – Proposer: John Scudder Second: Agnes Levine

That, pursuant to the power provided in Clause 15(1) of the New South Wales Bridge Association Limited (the “Company”), the members direct the Council that real property owned by the Company at Level 1, 162 Goulburn Street, Surry Hills, NSW must not be sold, and no contract or option for, or relating to, the sale of such property, can be entered into for a period of two years from the 6th of November 2023.

MOTION 2 – Proposer: Phillip Halloran Second: Warren Robinson

That, the Constitution of the NSWBA be amended by including the following clause 15A after Clause 15:

Notwithstanding any other clause of this Constitution, the real property owned by the Company at level 1, 162 Goulburn St, Surry Hills, NSW must not be sold, and no contract or option for or relating to the sale of such property, can be entered into, unless and until the members of the Company have approved, by way of special resolution, such sale and the terms of any such contract or option.

The purpose of this memorandum is to provide information to members to enable them to take an informed vote on each of the Motions at the upcoming EGM. The arguments for voting Yes to Motion 2 are those provided by the group of members that petitioned for Motion 2 and do not reflect the views of Council.

CONTEXT

In 2022 the Company conducted a strategic review triggered by:

- a decline in the NSWBA membership numbers and a decline in the number of players at its sessions and events that led to growing concerns about financial viability; and
- growing dissatisfaction of Affiliated Clubs with the services provided by the NSWBA a negative trend in player numbers across the state.

The strategic review identified two main hurdles that needed addressing as a priority:

1. The structure of NSWBA is dysfunctional because:
 - Affiliated Clubs do not have voting rights; and
 - Sydney Bridge Centre is restricted in its capacity to act in the best interest of its members.
2. There is a need to review the uses and financial viability of the Goulburn St property.

The NSWBA Council has proceeded to address these findings and plans to create two new and separate entities:

- A new Sydney Bridge Club (Club) with a separate board solely focussed on members' needs.
- A new State peak body for Bridge in NSW (BNSW), whose members will be all the Affiliated Bridge Clubs in NSW.

Council has endorsed a Separation Proposal that does not require the sale of the property. It is desirable to retain the property, especially in the current depressed CBD commercial real estate market. Further, the property has significant upside value as developers may view the location opposite Harmony Park as desirable when redevelopment of the site as hotel/residential becomes economically viable.

Analysis of the Company's finances has concluded however, that there are significant financial sustainability issues. For the Club, raising fees is not sufficient to cover the financial change necessary, it also needs to consider how to reduce significant property costs and improve the utilisation. BNSW needs to review and lift its services to foster a vibrant bridge community in NSW in a sustainable way. The proxy boards are confident that the sharing of assets as set out in the Separation Proposal will set up both organisations for future success *provided* action is taken urgently to reverse the current loss-making trend that is whittling away at NSWBA's cash reserves.

THE NEED FOR AN EGM

A petition was received by NSWBA on 5 September 2023 in relation to Motion 2 from members concerned that the plan to separate the organisation will require the sale of the property at Level 1, 162 Goulburn St, Surry Hills. The petition seeks to amend the Constitution to remove Council's right to sell the property without special resolution, which would require approval of 75% of members. The success of this motion will mean that a vote of only 25% of members can prevent the remaining 75% of members and Councillors from pursuing whatever changes they deem to be in the best interest of the club in the future. Similarly, 75% member approval would be required to remove this constraint from the Constitution.

Motion 1 was put forward by Council as a compromise, giving a direction to Council to not even consider a sale of the property for two years. This would not alter the Constitution and would limit the constraint on Council to two years. There is some uncertainty as to how the Council could reverse this direction under the current Constitution. A meeting is scheduled for 1 November to consider, amongst other things, this matter.

MOTION 1:

That, pursuant to the power provided in Clause 15(1) of the New South Wales Bridge Association Limited (the “Company”), the members direct the Council that real property owned by the Company at Level 1, 162 Goulburn Street, Surry Hills, NSW must not be sold, and no contract or option for, or relating to, the sale of such property, can be entered into for a period of two years from the 6th of November 2023.

Arguments FOR Motion 1

This motion provides a two-year window during which the Council can put in place initiatives to stop running down company reserves and return the business to financial stability.

This motion does not change the Constitution.

This motion provides certainty to those members who do not trust the Council’s statement that selling the property is an unsound financial action given the poor commercial property market and is not being contemplated. N.B. the adoption of skills-based nominations for Council/future boards should address the matter of trust in the Council.

Arguments AGAINST Motion 1

This motion is unnecessary and undemocratic – it gives the will of 25% of members precedence over the will of the majority. There is no plan to sell, and Council is committed to trying to turn around our financial situation.

Councillors may be exposed to circumstances where they are unable to act in the best interest of the company (fulfil their fiduciary duties), such as in the unlikely event of financial stress, or on receipt of an attractive offer to purchase. This places Councillors in a no-win situation.

Gaining the support of members to reverse the direction to Council in Motion 1 is likely to be difficult, no matter how rational the arguments may be as sale of the property is clearly an emotive issue for some members.

The proposed motion materially inhibits the ability of the NSWBA to attract and retain skilled Councillors especially given the recent history of threats of legal action from members that disagree with strategies being pursued by Council.

<p>MOTION 2: That, the Constitution of the NSWBA be amended by including the following clause 15A after Clause 15:</p> <p>Notwithstanding any other clause of this Constitution, the real property owned by the Company at level 1, 162 Goulburn St, Surry Hills, NSW must not be sold, and no contract or option for or relating to the sale of such property, can be entered into, unless and until the members of the Company have approved, by way of special resolution, such sale and the terms of any such contract or option.</p>	
Arguments FOR Motion 2	Arguments AGAINST Motion 2
The premises at level 1, 162 Goulburn St Surry Hills NSW (the “Premises”) are a vital and critical part of Sydney Bridge Club, including what is required to attract and retain members (and others) to play bridge at the club.	This motion, as a change to the Constitution and requiring a special resolution for Council to sell the property, is permanent, unnecessary and undemocratic – it gives the will of 25% of members precedence over the will of the majority. There is no plan to sell, and Council is committed to trying to turn around our financial situation.
The Premises were acquired 30 years ago as a result of the extraordinary efforts of members who had the foresight and acumen to appreciate that owning club premises was a most important factor in driving the success of the club.	The premises were acquired to enable the running of large tournament events and club play for the benefit of the NSW bridge playing community. Historical reasons do not inform what is the current best use of the premises in the best interest of the Company and its members.
Certain Councillors and other persons have taken the view that the Premises could be sold without the approval of members.	Councillors are of the view that any decision to consider selling the premises should be made by a simple majority of members, not 75% as would be the case under this motion. Councillors may be exposed to circumstances where they are unable to act in the best interest of the company (fulfil their fiduciary duties), such as in the unlikely event of financial stress, or on receipt of an attractive offer to purchase. As a consequence, the proposed motion inhibits the ability of the NSWBA to attract and retain skilled Councillors especially given the recent history of threats of legal action from members that disagree with strategies being pursued by Council.
The decision to sell or retain the Premises should be, and should always remain, a decision for members of the Company.	Council is legally obliged and does act in the best interest of the Company. This Motion reinforces the underlying dysfunction in the current organisation, amplifying the division of the State and Club functions. This is undermining the current good work of the

	skilled, volunteer Proxy Boards that is constructively working towards a common goal of a thriving NSW bridge community and a thriving Sydney Bridge Club.
Persons may be appointed as Councillors for a range of reasons. Those persons may, or may not, be expert in management and property matters. The proposed change to the Constitution will ensure that Councillors who wish to sell the Premises have sufficiently sound and persuasive arguments to convince members to support them.	Council is seeking to establish new organisations (BNSW and Club) with skills-based Boards. These Boards would be expected to be professional, which requires acting within the bounds of their skills and seeking professional advice when necessary.
At present, the Constitution of the Company provides for up to 6 Zonal Councillors (who are not members of the Company) who have one vote each at Council meetings just like other Councillors, on all matters including the sale of the Premises. Zonal Councillors may have a greater interest in promoting bridge across NSW rather than the interest of Sydney Bridge Club.	All current Councillors have fiduciary duties – they must act in the best interest of the Company. Zonal councillors would be in breach of their fiduciary duties if they did not consider the Objects in the Constitution that articulate the function of Club. Likewise, other Councillors would be in breach of their fiduciary duties if they did not consider the function of the State peak body. All Councillors must act in the best interest of the Company, irrespective of the process by which they were elected to Council.
Even if the Constitution is amended so there are no Zonal Councillors, the decision to sell the Premises should not be held by a small number of Councillors, irrespective of the will of members. The members of the Company should make that decision.	The Council’s mandate is set out in the Constitution. Councillors should be elected to Council based on their skills and retained on Council based on their performance as assessed by the members. This Motion creates personal liability for Councillors which will make Council roles unattractive for the skilled Councillors we need to navigate the future.
It is noted that the Registered Clubs Act 1976 prevents registered clubs (ie clubs which hold liquor licences, for example, golf, leagues and bowling clubs) disposing of any core property except with the approval of members. Core property is defined to include the premises of the club, or any facility provided for the use of members and guests of the club.	Sydney Bridge Centre is not a Registered Club under the Registered Clubs Act 1976. Seeking member approval for material changes to the business such as sale of the property, is normal good governance and does not require detailed specification in the Constitution.

RECOMMENDATION

Following consultation with NSWBA legal Counsel, the State Proxy Board, and the Club Proxy Board, the **majority of Councillors recommend that members Vote NO for Motion 1 and Vote NO for Motion 2.**