



Minutes

Council Meeting

**Held on Monday, 16 October 2017
commencing at 6:30pm
in the Council Chambers,
Level 2, Administration Building,
4-20 Eton Street, Sutherland**

Minutes of the Council Meeting of Sutherland Shire Council, held in the Administration Centre, Eton Street, Sutherland on Monday, 16 October 2017 commencing at 6.30 pm

PRESENT: The Mayor, Councillor Pesce, together with Councillor Boyd, Councillor Collier, Councillor Croucher, Councillor Forshaw, Councillor Nicholls, Councillor Plibersek, Councillor Provan, Councillor Riad, Councillor Scaysbrook, Councillor Simpson, Councillor Steinwall.

Staff in attendance were the General Manager, Director Corporate Support, Director Shire Infrastructure, Director Shire Planning, Property Services Manager (Lani Richardson), Executive Officer Governance (Karen Barrass), Executive Officer Governance (Neil Treadwell) and Executive Officer Governance (Karin Jones).

Acknowledgement of Country

The Mayor, Councillor Pesce, opened the Meeting with an Acknowledgement of Country.

Min No: 79 APOLOGY:

RESOLVED: (Councillor Plibersek/Councillor Provan)

That apologies tendered on behalf of Councillor Johns, Councillor McLean, Councillor Simone be accepted and leave of absence granted.

Disclosures of Interest

File Number: 2015/14239

Councillor Boyd declared a significant non-pecuniary interest in the following matter:

BWN005-18 Kareela Shopping Centre Development Proposal

File Number: MA17/0413

advising that my employer Colin Biggers & Paisley Pty Ltd represents the owner of Kareela Shopping Centre.

Councillor Nicholls declared a pecuniary interest in the following matter:

BWN005-18 Kareela Shopping Centre Development Proposal
File Number: MA17/0413

advising that his mother runs a business at the Shopping Village and leases a site from the owners.

Councillor Simpson declared a significant non-pecuniary interest in the following matter:

BWN005-18 Kareela Shopping Centre Development Proposal
File Number: MA17/0413

advising that he is a member of the Sydney South Planning Panel where this matter will be determined.

Councillor Forshaw declared a significant non-pecuniary interest in the following matter:

SER004A-18 Land Sale Proposal - 348R Kingsway, Caringbah
File Number: 2015/4546

advising that the owner of the company seeking to purchase the land is very well know to me in a professional capacity.

Whilst it is not a pecuniary interest I believe it is significant and that I should not participate in any debate or consideration of this matter.

Min No: 80

**Confirmation of Minutes of Council Meeting
held on Monday 18 September 2017
(Minutes Numbered 54 to 78 inclusive)**

RESOLVED: (Councillor Provan/Councillor Simpson)

That the Minutes of the Council Meeting held on 18 September 2017, being Minutes Numbered 54 to 78 inclusive, be and are hereby confirmed as a correct record.

Min No: 81**MM004-18****Mayoral Minute****McKell Avenue Bushfire****File Number: 2017/287937, 2017/287931**

At 3.15pm on Monday, 25 September 2017 a small fire was reported approximately 400 metres east of the toll booth on McKell Avenue, Waterfall within the Royal National Park. The fire rapidly expanded in size and intensity, with reports of smoke being sighted from Helensburgh and the Avon Dam Fire Tower within the ensuing twenty minute period.

Weather conditions at the time of the fire igniting were 27 degrees F temperature, 18% humidity with southeast wind gusts of up to 55kph. Due to these prevailing weather conditions fire fighters initially deployed to extinguish the fire were at risk and were required to be withdrawn.

The NSW Rural Fire Service (RFS) Hercules air tanker was deployed late on that Monday evening to deliver a retardant drop along the ridge line, above the fire in order to slow progress. Helicopters were also deployed to assist fire fighters who were drawn from RFS units at Sutherland and Illawarra with National Parks & Wildlife Service who worked throughout the night to contain the fire.

One 'Spot Fire' was identified outside containment lines east of Uloola Trail, due to erratic fire behaviour driven by high winds and low relative humidity. RFS Illawarra and Fire Rescue NSW (RFNSW) strike teams were deployed to Waterfall to provide property protection. Due to terrain and fire behaviour, containment strategies were placed under pressure and ultimately failed on Tuesday afternoon necessitating the implementation of a 'back burn' to contain the fire approximately 110ha in size. Fire status was downgraded to 'contained' on Wednesday, 27 September and declared 'out' on Friday, 6 October.

A total of 210ha was burned and the cause of the fire remains under investigation by both the Police and RFS.

Resources utilised in support included NSW Rural Fire Service Sutherland Shire District (all thirteen brigades), Illawarra Brigades (Wollongong, Shellharbour and Kiama), Macarthur Brigades (Liverpool, Campbelltown and Camden), Cumberland Brigades (Blacktown, Penrith and Fairfield LGAs), National Parks & Wildlife Service (NPWS), Fire Rescue NSW and the Police.

The Sutherland Shire Local Emergency Operations Centre (LEOC) was activated on Monday, 25 September and was staffed by relevant Emergency Service and Support Organisations until late

Wednesday, 27 September. Additional agencies included Sutherland Shire Council, Roads & Maritime Services (RMS), Regional Emergency Management Officer (REMO) and Sydney Trains.

It is worth reflecting that the location of this fire path was very similar to the tragic fire which saw five members of Sutherland Shire District Headquarters Brigade members lose their lives on Uloola Trail in November 1980.

I wish to publicly convey my appreciation for the support and assistance provided by the NSW Rural Fire Service of Sutherland Shire District in particular and out of area NSW Rural Fire Service Brigades as well as NPWS, Police, REMO, FRNSW, Sydney Trains, RMS and Sutherland Shire Council staff.

I would also like to note the many hours of hard work that volunteers have put into preparing the Sutherland area on the onset of the bushfire season with many hazard reduction activities to ensure that our communities are kept safe.

Congratulations on a job well done.

RESOLVED: (The Mayor, Councillor Pesce/Councillor Simpson)

That Council write to the Commissioner NSW Rural Fire Service to express Council's appreciation for the extraordinary effort and dedication of all the emergency services staff and volunteers in attending to the McKell Avenue bushfire last month.

Presentation of Excellence in the Environment Award

The Mayor, Councillor Pesce presented the Excellence in the Environment Award from the prestigious Local Government Awards to Manager Parks Operations (Grant Willoughby) and Manager Environment, Health & Building (Michael Ryan) representing the Green Streets Team.

Min No: 82

At this time in the Meeting, all open items not called for discussion were moved in bulk, as shown: "RESOLVED: (Councillor Scaysbrook/Councillor Boyd*)".

Min No: 83**GOV009-18****Cash Payments & Investments Report - August 2017****File Number: 2017/281575**

RESOLVED: (Councillor Scaysbrook/Councillor Boyd*)

That the information concerning Bank Balances and Investments held as at 31 August 2017, be received and noted.

Min No: 84**GOV010-18****Local Government Association of NSW Annual Conference 2017 - Appointment of Delegates****File Number: 2015/25361**

RESOLVED: (Councillor Simpson/Councillor Plibersek)

THAT:

1. Approval be given for interested Councillors, and staff as authorised by the General Manager, to attend the Local Government NSW Annual Conference at Hyatt Regency, Sydney from 4-6 December 2017.
2. The Mayor, Councillor Pesce together with Councillors Boyd, Croucher, Forshaw, Johns, Nicholls, Plibersek, Provan, Scaysbrook, Simpson and Steinwall be appointment the voting delegates to the Local Government NSW Annual Conference.
3. Council forwards a Motion with accompanying background note seeking Federal Government funding to implement the national security strategy (as detailed in this report) for inclusion in the Local Government NSW Annual Conference papers.

Min No: 85**PLN015-18****The Permissibility of Dual Occupancies in E3
Environmental Conservation and E4
Environmental Living Zones****File Number: 2015/21065**

RESOLVED: (Councillor Plibersek/Councillor Riad)

That the current permissibility of dual occupancy in Sutherland Shire Local Environmental Plan 2015 be maintained.

A Division was requested on the Resolution and the following votes were recorded:

In Favour of the Resolution were the Mayor, Councillor Pesce, together with Councillors Boyd, Collier, Croucher, Forshaw, Nicholls, Plibersek, Provan, Riad, Scaysbrook, Simpson and Steinwall.

The decision was unanimous.

Min No: 86

**PLN016-18 Sutherland Shire Development Control Plan
2015 - Draft Amendment 1
File Number: 2017/2643 79**

MOTION: (Councillor Plibersek/Councillor Forshaw)

THAT:

1. Sutherland Shire Development Control Plan 2015 be amended to refer to Council's Public Domain Design Manual and Council's Waste Collection Policy for New Multi-Unit Dwellings and Residential Flat Buildings as detailed in this report (Appendix A).
2. Sutherland Shire Development Control Plan 2015 Chapter 42 Administrative Provisions (neighbour notification provisions be amended as detailed in this report, other than duration of development consent provisions which shall retain a three year activation period. Council's Fees and Charges will be required to be amended accordingly.
3. Sutherland Shire Development Control Plan 2015 Chapter 39 Natural Resource Management be amended to include Council's previous resolution on tree replacement.
4. Sutherland Shire Development Control Plan 2015 be amended as required as a result of new State policies.
5. The draft amendments be exhibited for public comment in accordance with legislative requirements.

AMENDMENT: (Councillor Riad/Councillor Nicholls)

THAT:

1. Sutherland Shire Development Control Plan 2015 be amended to refer to Council's Public Domain Design Manual and Council's Waste Collection Policy for New Multi-Unit Dwellings and Residential Flat Buildings as detailed in this report (Appendix A).
2. Sutherland Shire Development Control Plan 2015 Chapter 42 Administrative Provisions (neighbour notification provisions and duration of development consent provisions) be amended as detailed in this report. Council's Fees and Charges will be required to be amended accordingly.

3. Sutherland Shire Development Control Plan 2015 Chapter 39 Natural Resource Management be amended to include Council's previous resolution on tree replacement.
4. Sutherland Shire Development Control Plan 2015 be amended as required as a result of new State policies.
5. The draft amendments be exhibited for public comment in accordance with legislative requirements.
6. Sutherland Shire Development Control Plan 2015 be amended with respect to Chapter 42 Administrative Provisions, as follows:
 - In accordance with the provisions of Section 95 of the Environmental Planning and Assessment Act, 1979, development consents shall lapse:
 - five years after the date from which it operates, where the estimated cost of development is up to \$500,000, or
 - three years after the date from which it operates, where the estimated cost of development is greater than \$500,000,
 - unless there are special circumstances and the consent authority imposes a period less than this as a trial period due to such special circumstances.

The Amendment on being put to the Meeting was carried to become the Motion.

A Division was requested on the Amendment and the following votes were recorded:

In Favour of the Amendment were the Mayor, Councillor Pesce, together with Councillors Boyd, Croucher, Nicholls, Provan, Riad, Scaysbrook, Simpson and Steinwall..

Against the Amendment were Councillors Collier, Forshaw and Plibersek.

The Motion on being put to the Meeting was carried to become the RESOLUTION of the Council **(as shown in the Amendment)**.

A Division was requested on the Resolution and the following votes were recorded:

In Favour of the Resolution were the Mayor, Councillor Pesce, together with Councillors Boyd, Croucher, Nicholls, Provan, Riad, Scaysbrook, Simpson and Steinwall.

Against the Resolution were Councillors Collier, Forshaw and Plibersek.

Min No: 87

**PLN017-18 Exemptions from Section 94 Contributions for
Emergency Services
File Number: 2017/284970**

RESOLVED: (Councillor Scaysbrook/Councillor Boyd*)

That the General Manager be given Delegation to grant exemptions from S94A Contributions for emergency services organisations where the proposal provides for significant community benefit.

Min No: 88

**INF009-18 Capital Infrastructure Program Update
File Number: 2017/44222**

RESOLVED: (Councillor Scaysbrook/Councillor Boyd*)

That the Capital Infrastructure Delivery Framework and Program Update report be received and noted.

Min No: 89

**SER006-18 Southern Expansion - A-League and W-League
Training and Competition Facilities Proposal
File Number: 2015/86923**

RESOLVED: (Councillor Forshaw/Councillor Boyd)

That Council provide in-principle, non-binding support to Southern Expansion for its proposal for entry into the A-League and W-League subject to:

1. The stadium and related competition facilities being wholly located on Crown land at Rawson Avenue, Loftus.
2. All training facilities located at The Ridge Sports Complex conditional upon existing sporting and established activity groups not being disadvantaged.
3. No construction, maintenance and/or ongoing operational costs borne by Council.
4. The proposal demonstrating it would appropriately address all environmental, social and traffic/traffic/parking impacts.
5. There being community support for the bid.

6. All existing educational services and facilities provided by TAFE, UOW and Cook School at Loftus be retained to the satisfaction of those organisations in the proposed development precinct.

A Division was requested on the Resolution and the following votes were recorded:

In Favour of the Resolution were the Mayor, Councillor Pesce, together with Councillors Boyd, Collier, Croucher, Forshaw, Nicholls, Plibersek, Provan, Riad, Scaysbrook, Simpson and Steinwall.

The decision was unanimous.

Min No: 90

**COR006-18 Report and Minutes of the Meetings of the
Sutherland Traffic and Traffic Safety
Committee and Consultative Traffic Forum held
on Friday, 6 October 2017
File Number: 2015/2036**

RESOLVED: (Councillor Riad/Councillor Nicholls)

THAT:

1. The decisions contained in the Minutes of the Sutherland Traffic and Traffic Safety Committee Meeting held on 6 October 2017 be noted.
2. The recommendations contained in the Minutes of the Consultative Traffic Forum Meeting held on 6 October 2017 be adopted.
3. An update report be provided on the success of the adopted measures after 6 months.

Min No: 91

**COR007-18 Local Government Association of NSW Annual
Conference 2017 - Voting Entitlements
File Number: 2015/209781**

RESOLVED: (Councillor Simpson/Councillor Scaysbrook)

THAT:

1. The Mayor, Councillor Pesce together with Councillors Boyd, Croucher, Forshaw, Johns, Nicholls, Plibersek, Provan, Scaysbrook, Simpson and Steinwall be appointment the voting delegates to the Local Government NSW Annual Conference.

2. The Mayor, Councillor Pesce together with Councillors Boyd, Croucher, Forshaw, Johns, Nicholls, Plibersek, Provan, Scaysbrook and Steinwall be appointment the voting delegates when voting for Office Bearers and the Board at the Local Government NSW Annual Conference.

Min No: 92

COR008-18

2016/17 Annual Financial Statements

File Number: 2016/253939

RESOLVED: (Councillor Scaysbrook/Councillor Boyd*)

THAT:

1. With regard to the General and Special Purpose Financial Reports of the Council for the year ended 30 June 2017, it is the opinion of Council that:
 - a. The Annual Financial Reports have been drawn up in accordance with:
 - i. the Local Government Act 1993 and the Regulations; and
 - ii. the Local Government Code of Accounting Practice and Asset Accounting Manual; and
 - iii. the Australian Accounting Standards.
 - b. The reports present fairly the Council's financial position and operating result for the year.
 - c. The reports are in accord with the Council's accounting and other records.
 - d. The Council is unaware of anything that would make the financial reports false or misleading in any way.
2. Pursuant to Section 418 of the Local Government Act 1993, public notice be given that the Council will present its audited financial reports and auditor's report at the Ordinary Meeting of Council to be held on 20 November 2017.

Min No: 93**Suspension of Standing Orders**

RESOLVED: (Councillor Simpson /Councillor Provan)

That Standing Orders be suspended to consider the Urgency Motions as the next items of business.

Min No: 94**BWN003-18****Proposed Major Projects Budget Committee****File Number: 2017/288630**

RESOLVED: (Councillor Simpson/Councillor Boyd)

THAT:

1. Council receives a charter for a proposed, major projects budget committee.
2. Once the charter is accepted, a project budget committee be established for the purpose of budget control of major Council projects.

The Charter is to help establish but not limited to:

- A. Objects and constraints of the project.
- B. In scope and out of scope items.
- C. Risks and public concerns.
- D. Identify funding.

Min No: 95**BWN004-18****SES Facility at Hungry Point****File Number: 2017/269046**

RESOLVED: (Councillor Scaysbrook/Councillor Forshaw)

That:

1. Council receive an urgent report detailing progress on developing the SES facility at Hungry Point to a standard that is appropriate for their use.
2. Council identify and report on funding required to satisfactorily complete this project, and sources of funding that may exist at Local, State and Federal level.
3. The above reports be made available for consideration at the next round of Standing Committees.

Min No: 96

BWN005-18

Kareela Shopping Centre Development Proposal

File Number: MA17/0413

*** Councillors Boyd and Simpson declared a significant non-pecuniary interest in this matter, left the Chamber, took no part in the discussion and did not vote.

*** Councillor Nicholls declared a pecuniary interest in this matter, left the Chamber, took no part in the discussion and did not vote.

RESOLVED: (Councillor Collier/Councillor Plibersek)

THAT:

1. The elected Council makes a submission to the Sydney South Planning Panel raising the elected Council's strong opposition and concerns regarding the proposed deletion by the developer of consent conditions which require:
 - a. works and improvements to the intersection of Freya Street and Bates Drive, Kareela, including the provision of an extra traffic lane; and
 - b. the installation of a roundabout at the intersection of Freya Street and Siandra Drive, Kareela.

2. The elected Council makes the submission referred to (1) on grounds including the following-namely, that:
 - a. the road works and improvements are required to manage the traffic created by the expansion of the shopping centre;
 - b. the safety of road users and pedestrians (including residents and visitors to the Kareela Shopping Centre) will otherwise be compromised;
 - c. the developer of the Kareela Shopping Centre had previously agreed to and endorsed the consent conditions referred to above;
 - d. in principle, developers who accept the terms of consent, should not be excused from undertaking works and improvements designed to manage traffic and safety impacts once the project has been completed;
 - e. the community has legitimate right to expect consent given to conditions by developers to be adhered to by those developers, particularly in cases where the community has expressed strong opposition to the project; and
 - f. the ratepayers of the Shire, as represented by the Council, will otherwise be left with the financial burden of managing the traffic generated by the Kareela Shopping Centre and its associated impacts, both presently and into the future.

3. The elected Council notes that Council's planning officers must independently assess the merits of the application and make a recommendation directly to the Sydney South Planning Panel without influence from or reference to this resolution.

A Division was requested on the Resolution and the following votes were recorded:

In Favour of the Resolution were the Mayor, Councillor Pesce, together with Councillors Collier, Croucher, Forshaw, Plibersek, Provan, Riad, Scaysbrook and Steinwall.

The decision was Unanimous.

Councillors Boyd, Nicholls and Simpson returned to the Meeting at this stage.

Resumption of Standing Orders

At this stage of the Meeting, Standing Orders were resumed.

Min No: 97

At this time in the Meeting, all closed items not called for discussion were moved in bulk, as shown: "RESOLVED: (Councillor Scaysbrook/Councillor Boyd)"**.

Min No: 98 CONSIDERATION OF BUSINESS IN CLOSED SESSION (8.51 pm)

The Mayor, Councillor Pesce, asked the General Manager if any representations had been received from the public on any of the items Council will be discussing in Closed Session.

The General Manager replied that no representations had been received to talk to the items in Closed Session.

The Mayor, Councillor Pesce, asked if there were any members of the public gallery who would like to speak on the reasons Council proposes to consider the items in Closed Session.

There were none.

**SER003A-18 Club Cronulla Development Proposal Including
Council Car Park, 45-49 Croydon St, Cronulla
File Number: 2015/219769**

Section 10A(2)(c) Information that would, if Disclosed, Confer a Commercial Advantage on a Person with Whom the Council is Conducting (or Proposes to Conduct) Business: This matter is being considered in Closed session as it relates to a proposal for the sale or purchase of land where prior knowledge of this proposal could confer an unfair financial advantage on any person.

**SER004A-18 Land Sale Proposal - 348R Kingsway,
Caringbah
File Number: 2015/4546**

Section 10A(2)(c) Information that would, if Disclosed, Confer a Commercial Advantage on a Person with Whom the Council is Conducting (or Proposes to Conduct) Business: This matter is being considered in Closed session as it relates to a proposal for the sale or purchase of land where prior knowledge of this proposal could confer an unfair financial advantage on any person.

**COR001A-18 General Manager's Performance Appraisal
File Number: 2016/239953**

Section 10A(2)(a) Personnel Matters Concerning Particular Individuals:
This matter is being considered in Closed session as it relates to personnel matters concerning particular individuals.

**COR002A-18 Senior Staff Contracts and Contract Renewal
File Number: 2015/223262, 2015/80614,
2015/79759, 2015/79637**

Section 10A(2)(a) Personnel Matters Concerning Particular Individuals:
This matter is being considered in Closed session as it relates to personnel matters concerning particular individuals.

Min No: 99

**SER003A-18 Club Cronulla Development Proposal Including
Council Car Park, 45-49 Croydon St, Cronulla
File Number: 2015/219769**

RESOLVED: (Councillor Forshaw/Councillor Provan)

THAT:

1. In principle support be provided by Council for the General Manager to negotiate possible terms for the sale and provision of additional public car parking in the development in respect of Council's land at 45-49 Croydon Street, Cronulla as it relates to the Cronulla Bowling and Recreation Club Limited.
2. Subject to successful negotiations Council receives a further report outlining terms for the sale of Council's land to the Cronulla Bowling and Recreation Club Limited on commercial terms.

Min No: 100

**SER004A-18 Land Sale Proposal - 348R Kingsway,
Caringbah
File Number: 2015/4546**

***Councillor Forshaw declared a significant non-pecuniary interest in this matter, left the Chamber, took no part in the discussion and did not vote.

MOTION: (Councillor Simpson/Councillor Plibersek)

The matter be deferred for further discussion.

AMENDMENT: (Councillor Croucher/Councillor Riad)

THAT:

1. Council undertake consultation with Orana NSW Inc, the current occupier of 348R Kingsway, Caringbah regarding relocation and co-location options.
2. Subject to mutually successful outcomes being reached in (1), Council provides in principle support to the sale of its land at 348R Kingsway, Caringbah being Lot 11 DP662946 by competitive process.
3. In accordance with the Power of Attorney dated 6 July 2016 BK 4710 No. 28, the General Manager execute any necessary documentation to give effect to this resolution.

The Amendment on being put to the Meeting was carried to become the Motion.

A Division was requested on the Motion and the following votes were recorded:

In Favour of the Amendment were the Mayor, Councillor Pesce, together with Councillors Croucher, Nicholls, Provan, Riad and Scaysbrook.

Against the Amendment were Councillors Boyd, Collier, Plibersek, Simpson and Steinwall.

The Motion on being put to the Meeting was carried to become the RESOLUTION of the Council **(as shown in the Amendment)**.

A Division was requested on the Resolution and the following votes were recorded:

In Favour of the Resolution were the Mayor, Councillor Pesce, together with Councillors Croucher, Nicholls, Provan, Riad and Scaysbrook.

Against the Resolution were Councillors Boyd, Collier, Plibersek, Simpson and Steinwall.

Councillor Forshaw returned to the Meeting at this stage.

Min No: 101

COR001A-18

General Manager's Performance Appraisal

File Number: 2016/239953

RESOLVED: (Councillor Scaysbrook/Councillor Boyd*)

That the General Manager's Performance Appraisal and Performance Plan effective to August 2018 be noted.

Min No: 102

COR002A-18

Senior Staff Contracts and Contract Renewal

**File Number: 2015/223262, 2015/80614,
2015/79759, 2015/79637**

RESOLVED: (Councillor Scaysbrook/Councillor Boyd*)

That Council notes:

1. The contractual arrangements of Senior Staff; and
2. The renewal of the contracts for the Director Shire Planning and Director Shire Infrastructure.

The Meeting closed at 9.58 pm.