



## **Business Paper**

### **Council Meeting**

**Monday, 19 December 2016**

**6:30pm**

**Council Chambers,  
Level 2, Administration Building  
4-20 Eton Street, Sutherland**

**ORDER OF BUSINESS**

- 1. ACKNOWLEDGEMENT OF COUNTRY**
  - 2. OPENING PRAYER**
  - 3. APOLOGIES**
  - 4. DISCLOSURES OF INTEREST**
  - 5. CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING**
  - 6. PRESENTATIONS**
  - 7. MAYORAL MINUTES**
  - 8. REPORTS OF THE CORPORATE GOVERNANCE COMMITTEE HELD ON 5 DECEMBER 2016**
    - GOV007-17 Cash Payments & Investments Report - October 2016
    - GOV008-17 Results of Public Exhibition of Updated Code of Meeting Practice
    - GOV009-17 Results of Public Exhibition of the Policy for the Payment of Expenses and Provision of Facilities to the Mayor and Councillors
    - GOV010-17 Nominations for Community Membership of Council Sub-Committees
    - GOV011-17 Mayor's Delegation
  - 9. REPORTS OF THE SHIRE SERVICES COMMITTEE HELD ON 5 DECEMBER 2016**
    - SER007-17 Economic Development & Tourism Committee - Adoption of Charter
    - SER008-17 Hazelhurst Retreat Board - Adoption of Charter
    - SER009-17 Arts and Cultural Subsidy Program 2016/2017 and Hall Hire Subsidy Program 2016/17
    - SER010-17 Proposed Mobile Phone Tower at Kirrawee Oval
  - 10. REPORTS OF THE SHIRE INFRASTRUCTURE COMMITTEE HELD ON 5 DECEMBER 2016**
    - INF006-17 Surf Life Saving Clubs Working Party - Adoption of Charter
    - INF007-17 Proposed Transfer of Management of Hungry Point Crown Reserve to Council
    - INF008-17 Woollooware Bay Shared Pathway Stage 6 – Current Status
    - INF009-17 Proposal to Rename Green Hills Parklands to Marang Parklands
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**11. REPORTS OF THE SHIRE PLANNING COMMITTEE HELD ON 5 DECEMBER 2016**

- PLN006-17 Impact of Coroner's Recommendations from the Inquest Regarding Connie Zhang
- PLN007-17 Final Report on Exhibition of SSLEP2015 Amendment - Housekeeping
- PLN008-17 Biobanking Opportunities in the Sutherland Shire
- PLN009-17 Results of Public Exhibition and Adoption of Sea Level Rise Policy
- PLN010-17 Granting of Easement for Right of Carriageway Over 495R President Avenue, Kirrawee - Council Carpark
- PLN011-17 IHAP005-17 - Demolition of Existing Structures, Tree Removal and Construction of a Child Care Centre with Basement Parking - 1-5 View Street, Miranda (DA15/1382)
- PLN012-17 IHAP006-17 - Demolition of Existing Structures and Construction of 6 Townhouses and 1 Swimming Pool - 84-86 View Street, Gymea (DA16/0524)
- PLN013-17 Rezoning 1A Atkinson Road and 1-13 Atkinson Road, Taren Point

**12. REPORTS FROM OFFICERS**

- COR036-17 Report and Minutes of the Meetings of the Sutherland Traffic and Traffic Safety Committee and Consultative Traffic Forum held on Friday, 2 December 2016
- COR037-17 Policy for the Payment of Expenses and Provision of Facilities to the Mayor and Councillors
- COR038-17 Appointment of Alternate Members to the Sydney South Planning Panel
- COR039-17 General Manager Performance Appraisal and Delegations

**13. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN****14. MOTIONS**

- MOT016-17 Shire Wide Parking Improvement Process
- MOT017-17 Planning Proposal at 10-14 Merton Street, Sutherland
- MOT018-17 Community Engagement Forums
- MOT019-17 Limitations of Use of the Mayor's Delegated Authority

**15. PRESENTATION OF PETITIONS****16. QUESTIONS****17. NON AGENDA ITEMS****18. CONSIDERATION OF BUSINESS IN CLOSED SESSION**

**19. CONFIDENTIAL REPORTS OF THE CORPORATE GOVERNANCE COMMITTEE HELD ON 5 DECEMBER 2016**

GOV001A-17 Proposed Voluntary Planning Agreement Kirrawee Brickpits, 566-594 Princes Highway, Kirrawee

**20. CONFIDENTIAL REPORTS OF THE SHIRE SERVICES COMMITTEE HELD ON 5 DECEMBER 2016**

SER001A-17 Legal Advice and Further Report - Request to Grant a Right of Carriageway over 39R President Avenue, Caringbah

**21. CONFIDENTIAL REPORTS OF THE SHIRE INFRASTRUCTURE COMMITTEE HELD ON 5 DECEMBER 2016**

INF004A-17 Tender for Public Amenities Cleaning and Hygiene Services

INF005A-17 Tender for Bushland Regeneration & Weed Control

INF006A-17 T649/16 Como Pool Path Stage 2 - Detail Design and Construction

INF007A-17 T650/16 Joseph Banks Native Plants Reserve Stages 2 & 3 - Picnic Area and Pond

INF008A-17 T667/16 Design and Construction of the Woollooware Bay Shared Pathway, Stage 6

INF009A-17 T669/16 Sylvania Shopping Centre Upgrade

INF010A-17 T670/16 Design and Install a Water Filtration System for The Ridge Golf Course

**22. CONFIDENTIAL REPORTS FROM OFFICERS**

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**REPORTS OF THE CORPORATE GOVERNANCE COMMITTEE HELD ON 5 DECEMBER 2016**

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**GOV007-17 CASH PAYMENTS & INVESTMENTS REPORT - OCTOBER 2016****EXECUTIVE SUMMARY**

- This report provides details of Council's investment performance for the period ending 31 October 2016, along with presenting cash and investment balances and diversification.
- Council may invest funds that are not, at any particular time, required for any other purpose. Investment of these funds must be in accordance with relevant legislation and regulations and in accordance with Council's Policy for Investment of Cash Balances. Details of these investments must be reported to Council monthly.
- The return on Council's portfolio to 31 October 2016 was 3.05% compared to the benchmark of 1.88%.
- All investments have been made in accordance with legislative requirements and within relevant Council policy.

**COMMITTEE RECOMMENDATION**

That the information concerning Bank Balances and Investments held as at 31 October 2016, be received and noted.

**GOV008-17      RESULTS OF PUBLIC EXHIBITION OF UPDATED CODE OF MEETING PRACTICE**

**EXECUTIVE SUMMARY**

- Proposed amendments to Council's Code of Meeting Practice were recently placed on public exhibition.
- No submissions were received from members of the public on the amended Code.
- The amended Code is now recommended for adoption.

**COMMITTEE RECOMMENDATION**

That the revised Code of Meeting Practice attached as Appendix A to the report, be adopted.

**GOV009-17      RESULTS OF PUBLIC EXHIBITION OF THE POLICY FOR THE PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO THE MAYOR AND COUNCILLORS**

**EXECUTIVE SUMMARY**

- Proposed amendments to Council's Policy for the Payment of Expenses and Provision of Facilities to the Mayor and Councillors were recently placed on public exhibition.
- No submissions were received from members of the public on the amended policy.
- Following discussions with Councillors minor amendments to some provisions have been made to clarify their intent.
- The amended policy is now recommended for adoption.

**COMMITTEE RECOMMENDATION**

That the revised "Policy for the Payment of Expenses and Provision of Facilities to the Mayor and Councillors" attached as Appendix 'A' to the report, be adopted.

**GOV010-17      NOMINATIONS FOR COMMUNITY MEMBERSHIP OF COUNCIL SUB-COMMITTEES****EXECUTIVE SUMMARY**

- Council at its meeting held on 4 October, 2016 resolved to establish a number of Sub-Committees.
- Nominations have been called from the community to apply for membership as a Community representative on these Sub-Committees.
- The purpose of this report is to outline the nominations received and those recommended for acceptance as community representatives on Council's various Sub-Committees.
- The adoption of members for Sub-Committees will allow the Committees to commence their regular meeting schedules.

**COMMITTEE RECOMMENDATION****RESOLVED:**

That in accordance with the delegation granted by the Council to this Committee it is resolved that the nominations for the Economic Development & Tourism Committee as shown in the report be appointed as members.

**RECOMMENDATION:****THAT:**

1. The nominations for membership of Council Sub-Committees (other than the Economic Development & Tourism Committee) be noted and the recommended community representatives as shown in the report, be appointed as members of the respective committees, except as follows:
  - (i) In respect of the Aboriginal Advisory Committee, the community membership being:
    - Deanna Schreiber - Voting Member
    - Tracie McNally - Voting Member
    - Bruce Howell - Voting Member
    - Frank Gorrel - Voting Member
    - Margaret Capare - Non Voting Member
    - Mark Sopuch - Non Voting Member
    - Dean Honan - Non Voting Member
    - Peter McDougall - Non Voting Member
  - (ii) In respect of the Floodplain Risk Management Committee, the community membership being:
    - Thomas Sewell - Community Representative
2. The nominees not recommended for acceptance be thanked for their applications.



**GOV011-17      MAYOR'S DELEGATION****EXECUTIVE SUMMARY**

- Council at its meeting held on 26 September, 2016 delegated a new instrument of delegation to the Mayor.
- Subsequently a Notice of Motion was considered seeking to limit the Mayor's delegated authority when a decision would exceed adopted budget.
- The Notice of Motion was deferred pending a further report setting out the impacts on the Instrument of Delegation should the motion be carried.
- A review has been undertaken identifying the changes should the motion be carried.

**COMMITTEE RECOMMENDATION**

That the legal advice regarding the Mayor's Delegation be noted.

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**REPORTS OF THE SHIRE SERVICES COMMITTEE HELD ON 5 DECEMBER 2016**

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**SER007-17      ECONOMIC DEVELOPMENT & TOURISM COMMITTEE - ADOPTION OF CHARTER****EXECUTIVE SUMMARY**

- Throughout the last term of Council the Economic Development Committee and the Tourism Committee had separate membership and met as separate committees.
- Council recently resolved to merge the two Committees due to the similarity in objectives of the respective committees.
- This report seeks the adoption of a charter for the Economic Development & Tourism Committee.

**COMMITTEE RECOMMENDATION**

That the Economic Development & Tourism Committee Charter attached as Appendix A, be adopted, subject to the following changes as indicated in italics:

**3. OBJECTIVE**

The committee is aimed at driving economic *and employment* growth in the Shire. It will achieve this by;

- identifying new opportunities for improved growth and improved employment in the local area;
- developing short, medium and longer term plans with set targets to achieve these;
- actively seeking *private and public sector* investment and funding opportunities from the Federal and State Governments; and
- *promoting opportunities for tourism and tourism infrastructure.*

**SER008-17      HAZELHURST RETREAT BOARD - ADOPTION OF CHARTER**

**EXECUTIVE SUMMARY**

- The Hazelhurst Retreat Board has overseen the activities of the Hazelhurst facility since it's opening in 2000.
- To ensure continued effective oversight of the facility the Charter of the Hazelhurst Retreat Board has been updated following a recent review.
- This report seeks the adoption of the updated charter for the Hazelhurst Retreat Board.

**COMMITTEE RECOMMENDATION**

That the updated Hazelhurst Retreat Board Charter attached as Appendix A, be adopted.

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**SER009-17      ARTS AND CULTURAL SUBSIDY PROGRAM 2016/2017 AND HALL HIRE  
SUBSIDY PROGRAM 2016/17****EXECUTIVE SUMMARY**

- Council provides financial support towards arts and cultural activities provided by a wide range of community groups in the Sutherland Shire.
- In addition, Council also subsidises a number of community groups by assisting with cost of their hire of Council's community halls.
- Forty two groups are supported through these programs, for a total value of \$179,820 from a total available budget of \$180,534.
- There is a benefit in a single consolidated subsidy and grants report to be furnished to Council in future years.

**COMMITTEE RECOMMENDATION**

THAT:

1. The Arts and Cultural Subsidy Program provide \$89,739 for 24 programs as listed in Appendix A of this report.
2. Subsidies totalling \$90,081 be provided to 19 community groups offsetting Council fees charged for the hire of public halls as listed in Appendix B of this report.
3. A review of process of making available arts and cultural grants offered by Council be undertaken to allow open, merit based applications to be received.
4. Funding agreements with community groups include the requirement to acknowledge Council's assistance.

**SER010-17      PROPOSED MOBILE PHONE TOWER AT KIRRAWEE OVAL****EXECUTIVE SUMMARY**

- To rectify a telecommunication 'blackspot', Optus has identified Kirrawee Oval; being Council land located at 2R Helena Street, Kirrawee, (Lot 1 DP 202278), as the best location to install a new telecommunication tower.
- The Telecommunications Act 1997 (Cth) permits carriers to install infrastructure on public land. The proposed tower is considered a high impact installation due to its 26 metre height and it being a new installation, it will require development consent.
- Optus is seeking the land owner's consent, being Council, to proceed its development application for the tower construction. Public consultation will also be carried out as part of the development application process.
- Council has eight existing telecommunication towers located on its land and receives compensation on commercial terms from the telecommunication carriers.
- Council is entitled to compensation from Optus should the development application be approved. For the 10 year term being sought by Optus, the amount of compensation equates to approximately \$321,000 + GST, applying IPART guidelines for telecommunication facilities.

**COMMITTEE RECOMMENDATION**

THAT:

1. Council's consent, being the owner of the land located on Kirrawee Oval, at 2R Helena Street, Kirrawee, be provided to allow a development application to be lodged by Optus Mobile Pty Ltd for the construction of a telecommunication tower.
2. Should the Development Application be approved, the Compensation/Access Deed, or Agreement, or any other relevant documentation formalising the occupation by Optus Mobile Pty Ltd to locate telecommunications equipment at 2R Helena Street, Kirrawee (Lot 1 DP 202278) be approved at terms and conditions to the satisfaction of the General Manager.
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.

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**REPORTS OF THE SHIRE INFRASTRUCTURE COMMITTEE HELD ON 5 DECEMBER 2016**

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**INF006-17          SURF LIFE SAVING CLUBS WORKING PARTY - ADOPTION OF CHARTER****EXECUTIVE SUMMARY**

- This report seeks the adoption of a charter for the Surf Life Saving Clubs Working Party which will serve to oversee the strategic direction from Council of new surf club developments within Bate Bay to encourage financial self reliance.
- The surf life saving clubs and Council have a special relationship formed over many years and the clubs occupy prime open space on the ocean front.
- An important objective for the working party will be to resolve a new way forward on leasing as principal lease terms are due to expire in a few years time.

**COMMITTEE RECOMMENDATION**

That the Surf Life Saving Clubs Working Party Charter attached as Appendix A, be adopted.

**INF007-17          PROPOSED TRANSFER OF MANAGEMENT OF HUNGRY POINT CROWN  
RESERVE TO COUNCIL****EXECUTIVE SUMMARY**

- Hungry Point is located at the southern most tip of the Cronulla peninsula.
- Council has been asked to consider a proposal by the Hungry Point Reserve Trust to transfer management of Hungry Point Crown Reserve to Council.
- This report sets out the various issues arising should Council assume management of the Hungry Point Reserve.

**COMMITTEE RECOMMENDATION**

That Council write to the Hungry Point Trust:

- (a) Advising that Council does not believe that it is in Council's interest to assume ownership and/or control and management of the site; and
- (b) Encourage the Trust to write to the Minister seeking a substantial increase in funding to achieve the strategic aims of the Conservation Management Plan and Masterplan prepared on behalf of the Trust.

**INF008-17      WOOLLOOWARE BAY SHARED PATHWAY STAGE 6 – CURRENT STATUS****EXECUTIVE SUMMARY**

- This report updates the new Council on the project justification and progress of Stage 6 of the Woollooware Bay Shared Pathway which represents the last stage and the missing link in the cycle network from Kurnell to Captain Cook Bridge and beyond.
- This report also addresses issues concerning the rezoning of the lands at 1A Atkinson Road, Taren Point to facilitate construction of the pathway.
- An alternate pathway design and location has now been identified that removes the need to acquire 1A Atkinson Road, Taren Point.
- Council has invited public tenders for the design and construction of the Woollooware Bay shared pathway, Stage 6 and a report in relation to acceptance of the Tender will be considered by the Confidential Shire Infrastructure Committee at its meeting to be held on 5 December, 2016.

**COMMITTEE RECOMMENDATION**

That representations be made to the Minister for Roads to extend the Roads and Maritime Services Active Transport Grant acquittal deadline.



**INF009-17      PROPOSAL TO RENAME GREEN HILLS PARKLANDS TO MARANG PARKLANDS****EXECUTIVE SUMMARY**

- Council has received a request from the La Perouse Local Aboriginal Land Council to rename the Green Hills Parklands to Marang Parklands.
- Marang is a Dharawal language word meaning 'sandhill'.
- The name change is considered appropriate and in accordance with Council's Naming of Public Open Space Determination and Aboriginal Heritage Signage Policy.
- This report enables Council to consider the proposal and provide approval to proceed with public consultation prior to submitting a recommendation to the Geographical Names Board.

**COMMITTEE RECOMMENDATION**

THAT:

1. The Marang Parklands be endorsed in principle as the new name for Green Hills Parklands.
2. The Park & Reserve Assets Unit undertake community consultation on the proposed renaming of the reserve to Marang Parklands.
3. A report on the results of consultation be submitted to Council prior to a formal submission to the Geographical Names Board.

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**REPORTS OF THE SHIRE PLANNING COMMITTEE HELD ON 5 DECEMBER 2016**

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**PLN006-17      IMPACT OF CORONER'S RECOMMENDATIONS FROM THE INQUEST REGARDING CONNIE ZHANG****EXECUTIVE SUMMARY**

- The purpose of this report is to respond to a Councillor enquiry MOT004-16 of 16 November 2015 concerning the impact of the Coroner's recommendations from the inquest regarding Connie Zhang, who perished in a high rise residential building fire in Bankstown.
- The report also covers additional questions contained within the Motion.
- The report concludes that there is an adequate legislative and compliance framework in place for fire safety, and that Sutherland Shire Council's fire safety reactive program meets the requirements of the legislation responding to compliance issues as they arise and maintains Council's fire safety register to ensure the safety of residents.

**COMMITTEE RECOMMENDATION**

THAT:

1. The report "Impact of Coroner's Recommendations from the Inquest Regarding Connie Zhang" be received and noted.
2. A report be prepared for the Council as to the installation, adequacy and maintenance of relevant fire safety measures at the new Kareela Shopping Centre and its associated underground car parks, including:
  - (a) The results of any recent fire safety audits of the Centre and all levels of its underground car parks;
  - (b) Instances of non-compliance, if any, with fire safety regulations and requirements;
  - (c) Any fire safety orders issued by Council;
  - (d) The signage and maintenance of appropriate, open exits for pedestrians and shoppers in the event of fire in the underground car parks; and
  - (e) Recommendations and plans, if any, for the implementation of improved fire safety measures at the Centre.

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**PLN007-17 FINAL REPORT ON EXHIBITION OF SSLEP2015 AMENDMENT - HOUSEKEEPING****EXECUTIVE SUMMARY**

- SSLEP2015 Amendment – ‘Housekeeping’ seeks to correct mapping errors and unintended omissions from the LEP plans, update Council’s Environmentally Sensitive Land Map with the latest data from the NSW Office of Environment and Heritage, and update Heritage provisions to reflect the recommendations of a review.
- Thirty eight submissions were received in response to the public exhibition of the amendment. Seventeen submissions address matters contained in the Planning Proposal, while twenty one refer to matters outside the scope of the Planning Proposal.
- The majority of submissions concern the update of the Environmentally Sensitive Land - Terrestrial Biodiversity Map. The mapping has been ground checked and amended in response to the issues raised. Other issues raised relate to three separate Heritage items, the proposed rezoning of 574 Kingsway, Miranda and the rezoning of part of Soldiers Road Oval, Jannali. Minor amendments are recommended where appropriate. These changes will necessitate the preparation of a revised Planning Proposal to be submitted to the Minister. Re-exhibition is unlikely to be required.

**COMMITTEE RECOMMENDATION****THAT:**

1. The Housekeeping Planning Proposal be amended as follows:
  - (a) Amend the Environmentally Sensitive Land – Terrestrial Biodiversity Map to exclude the 43 properties identified in Appendix D;
  - (b) Include Heritage Item ‘A 4003 Waterfall Railway Turntable’ in Schedule 5 Part 2 ‘Archaeological sites’;
  - (c) Remove the proposed amendment relating to Heritage Item 1064 Garden and Trees at 6 Excelsior Road, Cronulla;
  - (d) Remove the proposed rezoning of 574 Kingsway, Miranda (Lot 4 DP 10454);
  - (e) Amend the western boundary of the proposed land to be rezoned RE1 at Soldiers Road Oval / Jannali Baseball Fields (Part of Lot 200 DP 1081859 and Part of Lot 1230 DP) to the edge of the existing vegetation to the west of the baseball field.
2. The revised Planning Proposal be submitted to the Department of Planning and Environment to progress the amendment.
3. As part of a future planning proposal, the property at 284-286 Taren Point Road, Caringbah be removed from the Environmentally Sensitive Land – Terrestrial Biodiversity Map and the Heritage Item 1057 ‘Cronulla Linear Cultural Exotic Planting of Rail Embankment’ be removed from Schedule 5 Environmental Heritage.

**PLN008-17      BIOBANKING OPPORTUNITIES IN THE SUTHERLAND SHIRE****EXECUTIVE SUMMARY**

- Biobanking provides a measurable and consistent mechanism by which the impacts on biodiversity due to development at one site can be offset by improvements to biodiversity due to conservation works undertaken at biobanking sites.
- A recent study has identified three sites in the west of the Shire as potential biobanking sites. Two of these sites require additional work such as transfer of ownership and deletion of particular conditions of consent before the biobanking potential of the sites can be progressed.
- Significant potential may exist for other sites within the Sutherland Shire to be established as biobanking sites.
- Biobanking could provide a source of funds to improve the conservation value of sites throughout the Shire.

**COMMITTEE RECOMMENDATION**

## THAT:

1. An application be submitted under s96 of the EP&A Act to modify the 1999 consent by removing the condition requiring compliance with the Environmental Management Plan for the Lucas Heights Conservation Area.
2. The Minister for Lands and Water be requested to transfer the ownership of the Hall Drive Bushland Reserve at Menai to Council.
3. Council staff investigate potential Council owned land throughout the Sutherland Shire that may be suitable for the establishment of a biobanking site.
4. Council pursue opportunities for staff to obtain biobanking accreditation.
5. A Councillor briefing be provided in early 2017.

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**PLN009-17            RESULTS OF PUBLIC EXHIBITION AND ADOPTION OF SEA LEVEL RISE POLICY****EXECUTIVE SUMMARY**

- Council recently placed a draft Sea Level Rise Policy on public exhibition.
- A total of 66 written submissions and over 60 telephone calls were received.
- This report provides a summary of submissions made during the exhibition period and recommends that Council adopt the Sea Level Rise Policy.
- As part of the adoption of the Sea Level Rise Policy, updates to Section 149 planning certificate notations, flood studies, mapping and development controls will need to be made.

**COMMITTEE RECOMMENDATION**

THAT:

1. Outcomes of the public exhibition of the draft Sea Level Rise Policy be received and noted.
2. The Sea Level Rise Policy, as attached in Appendix A, be adopted.
3. The current Section 149(5) Planning Certificate notations applied to properties in accordance with Council's previous resolution (Mayoral Minute No. 34/14-15 dated 20 April 2015) related to sea level rise be removed.
4. Council apply Section 149(5) planning certificate notations for properties listed in Appendix B with:  
*"Part or all of this land has been identified as being at risk of future sea level rise by 2100, based on Council's 2016 Sea Level Rise Policy. Further information on the specifics of the future sea level rise for this land can be obtained by contacting Council on 9710 0333."*
5. Amendments be made to the Sutherland Shire Local Environmental Plan 2015 and draft Sutherland Shire Development Control Plan 2016 to incorporate planning provisions and development controls to support implementation of the adopted Sea Level Rise Policy.
6. Council's flood studies and floodplain risk management studies and plans be revised to incorporate the adopted Sea Level Rise Policy.
7. The sea level rise information be made available via the Geographic Information System and property specific flood information sheets.

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**PLN010-17            GRANTING OF EASEMENT FOR RIGHT OF CARRIAGEWAY OVER 495R  
PRESIDENT AVENUE, KIRRAWEE - COUNCIL CARPARK**

**EXECUTIVE SUMMARY**

- Oak Road, Kirrawee is the main pedestrian thoroughfare to the Kirrawee train station. Pedestrian traffic through Kirrawee is expected to increase with the development of the 'brick pit' site and other developments in Kirrawee.
- A Council imposed condition of development consent (DA15/0705), requires the owners of 165-171 Oak Road, Kirrawee to obtain an easement for Right of Carriageway (ROC) of approximately 297 square metres over Council's Fauna Place car park in Kirrawee (Part Lot 104 Deposited Plan 1159806).
- The granting of the ROC is forward planning by Council to ensure ease of safe pedestrian access to and from the Kirrawee train station and within Kirrawee town centre. It will create vehicle access to the development via the Council car park, which is preferred from a planning outcome, and will ensure pedestrian flow along Oak Road is safe and uninterrupted by a vehicle crossing.
- In turn, Council would benefit by seeking the owners of 165-171 Oak Road to dedicate 27 square metres of their land to Sutherland Shire Council. This will ensure access to the existing commuter car park is wholly over Council owned land and also to improve pedestrian access.

**COMMITTEE RECOMMENDATION**

THAT:

1. A right of carriageway over Council's car park at 495R President Avenue, Kirrawee (Part Lot 104 Deposited Plan 1159806) to benefit 165-171 Oak Road, Kirrawee be granted at terms and conditions to the satisfaction of the General Manager.
2. Council accept dedication of approximately 27 square metres of land at 165-171 Oak Road, Kirrawee to form part of the existing pathway.
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.

**PLN011-17      IHAP005-17 - DEMOLITION OF EXISTING STRUCTURES, TREE REMOVAL AND CONSTRUCTION OF A CHILD CARE CENTRE WITH BASEMENT PARKING - 1-5 VIEW STREET, MIRANDA (DA15/1382)**

**EXECUTIVE SUMMARY**

- This development application (DA) was referred to the Independent Hearing and Assessment Panel (IHAP) by the Director Shire Planning in response to the significant number of submissions received from nearby residents.
- The DA proposes the construction of a child care centre with basement parking for 140 children.
- The subject site is located on the north-eastern corner of Wandella Road and View Street, about 300m to the south of Westfield shopping centre and about 100m from President Avenue. It consists of three allotments that are presently occupied by three dwelling houses and ancillary structures.

**COMMITTEE RECOMMENDATION**

That Development Application No. 15/1382 for demolition of existing structures, tree removal and construction of a child care centre with basement parking at Lot 5 DP 26332, Lot 6 DP 26332, Lot 7 DP 26332 (Nos.1-5) View Street, Miranda be deferred to the Council Meeting to be held on 19 December 2016.

**PLN012-17      IHAP006-17 - DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF 6 TOWNHOUSES AND 1 SWIMMING POOL - 84-86 VIEW STREET, GYMEA (DA16/0524)**

**EXECUTIVE SUMMARY**

- This application was referred to the Independent Hearing and Assessment Panel (IHAP) at the request of Councillor Towell, whilst still a Councillor of Sutherland Council.
- The application is for the demolition of existing structures and construction of 6 townhouses over basement parking, 1 swimming pool and removal of 12 trees at the above property. The proposal complies with height, floor space ratio (FSR) and Landscaped Area (LSA) development standards.
- The site is located on the southern side of View Street, GyMEA and comprises 2 regular shaped lots with a combined site area of 1340.6m<sup>2</sup>. The site falls by approximately 2.2m from the rear boundary towards the View Street frontage.

**COMMITTEE RECOMMENDATION**

That Development Application No. 16/0524 for Demolition of Existing Structures and Construction of Six Townhouses and One Swimming Pool at Lot 34 & Lot 35 DP 945, (Nos. 84 – 86) View Street, GyMEA, be refused for the following reasons:

- (a) The proposal will result in an unacceptable level of tree loss and impact on the greenweb restoration area.
- (b) The level of impact on privacy to adjoining properties is unacceptable.
- (c) The proposal presents unacceptable levels of bulk and scale.
- (d) The proposal will have an unacceptable impact on the character and streetscape in the context of the R2 residential zone.



**PLN013-17 REZONING 1A ATKINSON ROAD AND 1-13 ATKINSON ROAD, TAREN POINT****EXECUTIVE SUMMARY**

- Stage 6 of the Woollooware Shared Pathway is currently being finalised. Earlier versions of the project required the purchase of a strip of land along the foreshore at 1A Atkinson Road and 1-13 Atkinson Road, Taren Point. These properties have proven difficult to acquire as they have existing businesses operating on them.
- The design of the pathway has been revised to include two sections of wooden boardwalk which extend into the foreshore area around the sites at 1A and 1-13 Atkinson Road. This avoids the need to acquire the properties.
- Given the land no longer needs to be acquired, it is recommended that the land be rezoned from RE1 Public Recreation to B7 Business Park in order to remove Council's obligation to purchase the land.

**COMMITTEE RECOMMENDATION**

THAT:

1. A Planning Proposal be prepared to rezone the portion of land zoned RE1 Public Recreation at 1A Atkinson Road, Taren Point and 1-13 Atkinson Road, Taren Point to B7 Business Park.
2. Council write to the owners of the land at 1A Atkinson Road, Taren Point and 1-13 Atkinson Road, Taren Point informing them of the rezoning and the removal of their land from Council's acquisition schedule because it is no longer needed for the construction of stage 6 of the Woollooware Shared Pathway.

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**COR036-17      REPORT AND MINUTES OF THE MEETINGS OF THE SUTHERLAND  
TRAFFIC AND TRAFFIC SAFETY COMMITTEE AND CONSULTATIVE  
TRAFFIC FORUM HELD ON FRIDAY, 2 DECEMBER 2016**

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**COR036-17**

**Attachments:** Nil

**EXECUTIVE SUMMARY**

- Meetings of the Sutherland Traffic and Traffic Safety Committee and Consultative Traffic Forum were held on 2 December 2016.
- The Minutes of the meetings are below.

**REPORT RECOMMENDATION**

THAT:

1. The decisions contained in the Minutes of the Sutherland Traffic and Traffic Safety Committee Meeting held on 2 December 2016 be noted.
2. The recommendations contained in the Minutes of the Consultative Traffic Forum Meeting held on 2 December 2016 be adopted.

PRESENT: Councillor Croucher (Chairperson), together with Councillor McLean, Mr Ken Cook (representing Ms Eleni Petinos, MP), Mr Neil McCormack (representing Mr Lee Evans, MP), Mr Mike Schrafft (representing Mr Mark Speakman, MP), Senior Constable Rachel King (representing the NSW Police, Sutherland Local Area Command), Mr Ryan Horne (representing Roads and Maritime Services) Ms Tanmila Islam (representing Roads and Maritime Services) and Mr Michael Cutrupi (representing St George Cabs)

Staff in attendance were the Traffic and Transport Manager (Bruce Powe), Traffic Engineer (Cristian Vasquez) and Executive Officer - Governance (Neil Treadwell).

APOLOGY: Apologies tendered on behalf of Eleni Petinos MP, Lee Evans MP, Mark Speakman MP and Senior Constable Michael Todd (representing the NSW Police, Miranda Local Area Command) were accepted.

Report and Minutes of the Meeting of the Sutherland Traffic  
and Traffic Safety Committee held on Friday, 4 November 2016

DECISION: (Councillor Croucher/N McCormack)

That the Report and Minutes of the Sutherland Traffic and Traffic Safety Committee Meeting held on Friday, 4 November 2016 be confirmed as a correct record.

\*\*\* **Disclosures of Interest**

There were no disclosures of interest declared.

**All Report Recommendations were voted unanimously by the Sutherland Traffic and Traffic Safety Committee.**

**STR055-17**                    **2017 Australia Day Celebrations Cronulla - Temporary  
Road Closures - Gerrale Street, Cronulla  
File Number: 2016/238658**

DECISION:

THAT:

1. Pursuant to Section 116 of the Roads Act 1993, the temporary closure of Gerrale Street carpark from 8.00pm Wednesday 25 January until 11pm Thursday 26 January 2017, be approved for the conduct of the Australia Day Celebrations event, provided the applicant ensures the following conditions and requirements are satisfied:
  - (a) The applicant shall organise sufficient police, accredited traffic controllers, security and/or private marshals to ensure and supervise the safe conduct of the event at all times.
  - (b) The applicant shall use barriers, detour signposting and directional signposting to adequately highlight the area of the proposed temporary closure and ensure motorists are warned of changes to local traffic patterns in view of the proposed closure(s).
  - (c) The applicant shall ensure that all laws, rules and regulations are strictly observed by participants. It is the applicant's responsibility to ascertain which laws, rules and regulations may be applicable to the use of the road.
  - (d) The applicant shall notify the State Emergency Service prior to the event.
  - (e) The applicant shall ensure the road is left in a reasonably clean condition after the event.
  - (f) The event be advertised in the local paper for a minimum period of 28 days and a letter box drop undertaken of affected businesses and provided there are no substantial or reasonable objections received, the event be permitted to proceed.
  - (g) The applicant shall meet the advertising fee of \$260.00 and pay this sum to the Sutherland Shire Council, at least seven (7) calendar days prior to the event. Such monies should be paid at the front counter of Council's Administration Centre, 4 to 20 Eton Street Sutherland (Account Number: SCCA2ADSSTC001); and proof of payment should be forwarded to the Sutherland Traffic Committee Executive Officer for appropriate action.

## STR055-17 Cont'd

- (h) That Australian Standard 1742.3 be complied with and that the applicant grant 'Lead Agencies' (ie, the NSW Police, the Roads and Maritime Services and the Sutherland Shire Council) an indemnity from and against all claims, demands, remedies, suits, injuries, damage, losses, costs, liabilities, actions, proceedings, rights of action and claims for compensation for which the 'Lead Agencies' may become liable in connection with injury, damage or accidental death through the applicants neglect or default or the neglect/default of any other person in connection with the approved use of the streets for the event.
  - (i) The applicant will send evidence of public liability insurance coverage for the event, including Council's interest noted thereon, to the Executive Officer - Governance at Council's Administration Centre, 4 to 20 Eton Street Sutherland; at least seven (7) calendar days prior to the event.
  - (j) A letterbox drop of affected local residents and businesses a minimum of seven (7) days prior to the event.
2. The event referred to in 1 above be conducted in accordance with the requirements of the Roads and Maritime Services (RMS) "Guidelines for Traffic Management for Special Events".
  3. After the event, Council may reconsider use of the road by the applicant, and any improper use and/or disregard of the conditions and requirements may lead to a rejection of future applications.
  4. Pursuant to the Delegations to Councils on the Regulation of Traffic, a Traffic Management Plan be submitted to the Sydney Transport Management Centre - Special Events Unit of the RMS for consideration of approval. Under these circumstances the advice of the RMS representative is offered without prejudice and will not be construed as embodying the concurrence of the RMS.
  5. That temporary No Parking signs be provided on the western side of Gerrale Street north of Laycock Avenue and at Laycock Avenue west of Gerrale Street to serve as a set down and pick up area for the duration of the event.

**STR056-17**                    **2017 Australia Day Celebrations Illawong -  
Temporary Bus Zone - Old Illawarra Road  
File Number: 2016/238719**

DECISION:

THAT:

1. A Temporary 'Bus Zone' be provided at Old Illawarra Road, Illawong, approximately 100 metres east of the Oriana Drive intersection, for Australia Day on 26 January 2017, in accordance with Plan 'A' attached to the report.
2. The authorised officers be advised of this decision for enforcement.

**STR057-17**                    **Bataan Close, Illawong - Modifications to Turning  
Area Parking Restrictions  
File Number: 2016/231313**

DECISION:

THAT:

1. 'No Stopping' restrictions be provided in a part of the Bataan Close, Illawong turning area, in accordance with Plan 'A' attached to the report.
2. The authorised officers be advised of this decision for enforcement.

**STR058-17**                    **Empire Place, Ryan Place and Olivia Place (New Road),  
Illawong - Parking Restrictions  
File Number: 2016/248793**

DECISION:

THAT:

1. 'No Parking' signs be approved at the turning areas of Ryan Place and Olivia Place, and along the eastern side of Olivia Place, in accordance with Plan 'A' attached to the report.
2. Yellow linemarking for 'No Stopping' restrictions be provided at the intersections of Empire Place with Ryan Place and Olivia Place, in accordance with Plan 'A' attached to the report.
3. A report be provided to the Committee on Council's current policy for the enforcement of parking on the nature strip including areas of roll kerb.
4. The authorised officers be advised of this decision for enforcement.

**STR059-17**                    **Robertson Street north of Adelong Street,  
Sutherland - Timed Parking Restrictions  
File Number: 2016-231313**

DECISION:

THAT:

1. '2P' parking restrictions be approved on the eastern side of Robertson Street, for a distance of approximately 30 metres north of Adelong Street, Sutherland, in accordance with Plan 'A' attached to the report.
2. The authorised officers be advised of this decision for enforcement.

**STR060-17**                    **Yuruga Avenue, Caringbah - 30min Parking Restrictions  
File Number: 2016/231313**

DECISION:

THAT:

1. '1/2P' parking restrictions be provided in Yuruga Avenue, Caringbah, in accordance with Plan 'A' attached to the report.
2. The authorised enforcement officers be advised of this decision.

**STR061-17**                    **Cedar Place, Kirrawee - Four Hour Parking Proposal  
File Number: 2016/231313**

DECISION:

THAT:

1. Four (4) hour parking restrictions be approved on the southern side of Cedar Place, off Oak Road, Kirrawee, in accordance with Plan 'A' attached to the report subject to a review to determine whether there is sufficient room to provide an additional car space at the western end of the restrictions including the possibility of reducing the length of No Stopping on approach to Oak Road.
2. The Environmental Health & Regulation Group be advised of this decision.

**STR062-17**                    **Clio Street, East of Toronto Pde, Sutherland -  
Timed Parking**  
**File Number: 2016-231313**

DECISION:

THAT:

1. Three '2P' parking spaces and 'No Stopping' restrictions be provided on the southern side of Clio Street as shown on the attached plan, in accordance with Plan 'A' attached to the report.
2. The authorised officers be advised of this decision for enforcement.

**STR063-17**                    **Minor Signposting and Linemarking - December 2016**  
**File Number: 2016/231313**

DECISION:

THAT:

1. The recommendations listed in the Minor Signage Items table, be approved in accordance with the attached Plans, with the exception of item C5 as this matter was dealt with as a separate item in report STR062-17.
2. The authorised officers be advised of this decision for enforcement.

**STR064-17**                    **Banksia Road and Mackay Avenue, Caringbah -  
Proposed '4 Hour' Parking Restrictions and  
Motorcycle Parking**  
**File Number: 2016/231313**

DECISION:

THAT:

1. Twenty '4-hour' parking spaces and five motorcycle parking spaces be provided at Banksia Road, Caringbah, in accordance with 'Plan A' attached to the report, to offset loss of parking from development of the adjacent public car park at No. 22-24 Banksia Road, Caringbah.
2. The authorised officers be advised of this decision for enforcement.



**STR065-17**                    **Talara Road, Adjacent to Hazelhurst, Gymea**  
**File Number: 2016/231313**

DECISION:

THAT:

1. "No Parking 5am to 1pm" zone operating seven day a week in Talara Road, Gymea be approved at the entrance to the rear loading dock to Hazelhurst Gallery, in accordance with Plan 'A' attached to the report.
2. The authorised officers be advised of this decision for enforcement.

**STR066-17**                    **Belgrave Esplanade, Sylvania Waters - Proposed**  
**Mini Roundabouts and Pedestrian Refuges**  
**File Number: 2015/12929**

DECISION:

THAT:

1. The Roads and Maritime Services representative requested additional time to consider the proposal as it was the subject of a late report.
2. The Sutherland Traffic and Traffic Safety Committee endorse the Recommendation, as detailed in points 3 and 4, subject to approval of Roads and Maritime Services.
3. The provision of three mini-roundabouts, pedestrian refuges and associated linemarking and signposting be approved in Belgrave Esplanade, Sylvania Waters, in accordance with 'Plan A' attached to the report be approved by the Committee.
4. "Do Not Queue Across Intersection" signs be provided at the intersection of Belgrave Esplanade and Goulburn Peninsula, Sylvania Waters.

**ADDITIONAL REPORT**

**STR067-17**                    **Intersection of Port Hacking Road and Kingsway, Caringbah**  
**File Number: 2016/231313**

DECISION:

That nominated representatives from Sutherland Shire Council, Sutherland LAC, Miranda LAC and Roads and Maritime Services meet to discuss pedestrian safety options at the intersection of Port Hacking Road and Kingsway, Caringbah and, that a report be provided to a future Sutherland Traffic and Traffic Safety Committee.

**CTF002-17 Allison Crescent, Menai - Trailer Parking**  
**File Number: 2016/232763**

RECOMMENDATION:

That the report on "Allison Crescent, Menai - Trailer Parking" be received and noted.

**CTF003-17 Schofield Place, Menai - 'No Stopping' Signs**  
**File Number: 2016/231313**

RECOMMENDATION:

That the report on the provision of 'No Stopping' signs in Schofield Place be received and noted.

**CTF004-17 Angle Road at Grays Point Road, Grays Point -  
Pedestrian Safety**  
**File Number: 2016/231313**

RECOMMENDATION:

THAT:

1. The report regarding pedestrian safety and traffic conditions in Angle Road at its junction with Grays Point Road, Grays Point be noted.
2. Pedestrians and traffic conditions at the refuge island in Angle Road, Grays Point be monitored during the first school term in 2017 to determine if there are any sufficient increased pedestrian movements at this location.

The Meeting closed at 11.15 am.

**RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Traffic & Transport Services Manager, Bruce Powe, who can be contacted on 9710 0498.

File Number: 2015/2036

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**COR037-17      POLICY FOR THE PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO THE MAYOR AND COUNCILLORS**

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**COR037-17****Attachments:** Nil**EXECUTIVE SUMMARY**

- Proposed amendments to Council's Policy for the Payment of Expenses and Provision of Facilities to the Mayor and Councillors were recently placed on public exhibition.
- Following the exhibition period it was identified that clarification of the allowable uses of the \$250 monthly telephone and data charges reimbursement was required.
- It is recommended that the policy note that the allowance for data costs may include subscription costs to an electronic metropolitan news service or App.

**REPORT RECOMMENDATION**

THAT:

1. This report be considered in conjunction with report GOV009-17.
2. The revised "Policy for the Payment of Expenses and Provision of Facilities to the Mayor and Councillors" attached as Appendix 'A' to the report GOV009-17, be adopted, subject to clause 8.7 being amended to allow for the reimbursement of subscription costs to an electronic metropolitan news service or App, subject to the same \$250 a month limit applying.

**PURPOSE**

The purpose of this report is to recommend a variation to the Policy for the Payment of Expenses and Provision of Facilities to the Mayor and Councillors to allow reimbursement for subscription costs to an electronic news service or App.

**BACKGROUND**

Council recently placed on public exhibition proposed changes to the Policy for the Payment of Expenses and Provision of Facilities to the Mayor and Councillors. The results of the public exhibition are detailed in report GOV009-17, and that report is currently before Council.

**DISCUSSION**

Following the exhibition period of the draft policy it was identified that clarification of the allowable uses of the \$250 monthly telephone and data charges reimbursement was required. It is recommended that the policy note that the reimbursement for telephone and data costs may include subscription costs to an electronic metropolitan news service or App.

**CONSULTATION**

A notice was placed on the Council's website under the Community Engagement section seeking comments on the proposed policy. At the conclusion of the 28 day public exhibition period, no comments were received.

Given that the minor amendment proposed in this report does not propose an allocation of additional benefit/funding, rather simply provides further clarification of the intent of the clause, it is not considered necessary to place the amended policy on further public exhibition.

**BUDGET AND RESOURCES**

The coordination of expenses and facilities for the Mayor and Councillors is the responsibility of the Corporate Governance Unit utilising existing resources.

**POLICY**

The Policy for the Payment of Expenses and Provision of Facilities to the Mayor and Councillors provides the framework for the provision of all equipment, resources and support for Councillors.

**CONCLUSION**

The proposed additional amendment to the policy allows for a more modern and flexible approach to the way Councillors work. It is appropriate with the election of the new Council that this policy be adopted at the commencement of the term.

**RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Manager Governance and Customer Service, Todd Hopwood, who can be contacted on 9710 0817.

File Number: 2015/26264

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**COR038-17      APPOINTMENT OF ALTERNATE MEMBERS TO THE SYDNEY SOUTH  
PLANNING PANEL**

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**COR038-17****Attachments:** Nil**EXECUTIVE SUMMARY**

- Council at its meeting of the 24 October 2016 appointed Councillors Simpson and Johns as Council's representatives on the Sydney South Planning Panel for one year.
- It is appropriate that Council consider the appointment of two alternate delegates to the Panel to allow for circumstances where existing representatives are unable to participate in meetings.

**REPORT RECOMMENDATION**

That the Mayor, Councillor Pesce be appointed as the first alternate and the Deputy Mayor, Councillor Scaysbrook be appointed as the second alternate to the Sydney South Planning Panel until October 2017.

**PURPOSE**

The purpose of this report is to appoint two alternate delegates to the Sydney South Planning Panel (SSPP).

**BACKGROUND**

Joint Regional Planning Panels (JRPP) commenced operation in July 2009 to strengthen decision making on regionally significant development applications and certain other planning matters. Sutherland Shire Council was one of 24 local government areas between Pittwater and Sutherland Shire covered by the Sydney East JRPP.

In November 2016, six Sydney Planning Panels (SPPs) were established which replaced the Sydney East and Sydney West JRPPs. Sutherland Shire Council sits in the Sydney South Planning Panel (SSPP) district. As per Council's resolution of October 2016 (COR029-17) Councillors Simpson and Johns have continued to represent Council on this panel.

**DISCUSSION**

At the time of Council nominating its SSPP representatives, alternatives were inadvertently not nominated. As part of Council's representation to SSPP, there will be times where it will be necessary for alternate Council members to participate in the SSPP meetings. Councils may nominate alternatives in the event of absence of the nominated Council representative to maintain the SSPP Panel of five members. As the new Council has formed and has two endorsed Council representatives, it is appropriate for Council to nominate two alternate panel members.

**BUDGET AND RESOURCES**

Council has previously set a meeting fee of \$600 and an allowance of \$150 per hour, minimum one hour up to a maximum of \$600 for attending briefings of the Sydney South Planning Panel. This fee is inclusive of any incidental costs and the cost of transport/travel (CCL021-17). It is recommended that these rates be continued and be applied to the SSPP.

**POLICY**

This matter has no significant policy implications. The SSPP has its own codes and practices that need to be observed by members. Council's Code of Conduct and other policies relevant to Councillors and Council representatives would continue to apply.

**CONCLUSION**

Currently Council has two representatives for SSPP, Councillors Simpson and Johns who have a tenure of 12 months expiring October 2017 with no alternatives nominated in the instance where a panel member is not available or has a conflict of interest. Hence the recommendation of nominating two alternative representatives. The recommendation to appoint the Mayor, Councillor Pesce and Deputy Mayor, Councillor Scaysbrook is the result of discussions with the Mayor, Councillor Pesce, Deputy Mayor, Councillor Scaysbrook and the Director Shire Planning.

The recommendation is to encompass the same tenure as the original nominated SSPP Council representatives of one year along with the same rates of payment.

**RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Manager Governance and Customer Service, Todd Hopwood, who can be contacted on 9710 0817.

File Number: 2015/228772

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**COR039-17    GENERAL    MANAGER    PERFORMANCE    APPRAISAL    AND  
DELEGATIONS**

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COR039-17

**Attachments:** Appendix A and Appendix B (Under Separate Cover)

**EXECUTIVE SUMMARY**

- Council's General Manager commenced in August 2015 and is required within the terms of his employment contract to develop a performance plan and undertake an annual performance appraisal.
- The annual performance appraisal has now been held and a performance plan for the period up to August 2017 has also been developed.
- This report introduces the performance appraisal document and the performance plan that are confidential documents provided to Councillors under separate cover.
- The report also presents an updated Instrument of Delegation for the General Manager that has been reviewed in accordance with Section 380 of the Local Government Act, 1993.

**REPORT RECOMMENDATION**

THAT:

1. The General Manager's Performance Appraisal and Performance Plan effective to August 2017 be noted.
2. Any previous delegation to the General Manager be revoked.
3. Council delegate to the General Manager the "General Manager's Delegation (Instrument of Delegation)" attached as Appendix A.



**PURPOSE**

This report presents the General Manager's Performance Appraisal, Performance Plan for the period up to August 2017 and proposed delegations for consideration by Council.

**BACKGROUND**

Council's General Manager commenced in August 2015 and is required within the terms of his employment contract and Section 338(1) of the Local Government Act 1993 to develop a performance plan. It was determined that Council would utilise the services of Local Government NSW (LGNSW) in developing the performance agreement with the General Manager and the Council. LGNSW is experienced in delivering this service to many Councils, and the service comes at no additional cost as it is included in our subscription bundle to our industry employer body.

**DISCUSSION**

Christian Morris from LGNSW met on 31 August 2016 with the Mayor, Cr Carmelo Pesce, then Deputy Mayor, Cr Hassan Awada, and a Councillor nominated by the General Manager, Cr Peter Scaysbrook to review the performance assessment document developed by LGNSW, reviewing the assessment of the General Manager's performance since his commencement in August 2015.

In addition, Strategic and Operational Objectives have been developed for the 12 month period to August 2017, at which time the panel will review the General Manager's achievements. The Performance Appraisal is a confidential document available under separate cover (Appendix B).

**Remuneration**

Clause 8.3 of the General Manager's contract provides that Council may approve an increase in the total remuneration package where the General Manager's performance has been assessed as being of a better than satisfactory standard. There are 20 criteria in the Performance Assessment, of which the General Manager was rated as 'Exceeding Expectations' in 11 of them, including one 'Outstanding'. The General Manager receives an annual increase in line with Senior Executive Service Salaries increases. The General Manager does not seek an increase in his total remuneration package.

**Delegations**

In addition to the annual review of the General Manager's performance, Section 380 of the Local Government Act, 1993 requires the Council to review all its delegations, including those to the General Manager, during the first 12 months of each term of its office. Council has recently considered the previously issued delegations to the Mayor, Deputy Mayor and Standing Committees in the first few meetings of this Council term. A thorough review of the previous delegations issued to the General Manager has been completed and it is considered appropriate for Council to give consideration to the draft updated instrument of delegation in conjunction with consideration of the General Managers performance.

To ensure that the instrument of delegation is easily understood and kept to a minimum length the document is drafted to delegate to the General Manager, all of the functions, powers, duties and authorities of the Council that it may lawfully delegate under the Local Government Act 1993, any other Act, regulation, instrument, rule or the like, other than those functions prescribed in section 377(1) of the Local Government Act 1993 as functions which may not be delegated.

The general delegation referred to above is subject to the restrictions set out in Schedule 1 of the Instrument. Schedule 1 is set out in a format that details in a tabular format each delegation to the General Manager that is subject to a limitation / restriction, with a corresponding entry for each item detailing the restriction.

The draft Instrument of Delegation features two new authorities / delegations that are considered appropriate following recent amendments to the Local Government Act, 1993.

- Schedule 1, Clause 9 (Financial Assistance)  
The General Manager may contribute money or otherwise grant financial assistance to persons under section 356 of the Local Government Act 1993, subject to the limitations specified in Clause 9.1.
- Schedule 1, Clause 15 (Tenders, Quotations and Expressions of Interest)  
Amended previous delegation to allow the General Manager to award tenders called under s55 of the Local Government Act 1993, unless the tender is to provide services currently provided by members of staff of the council.

## **BUDGET AND RESOURCES**

The General Manager's Performance Appraisal was facilitated by LGNSW as an inclusion in Council's subscription bundle and as such attracted no extra costs. The administration and implementation of Council's delegations is the responsibility of the Corporate Governance Unit utilising existing resources.

## **POLICY**

There is no Council policy relating to the General Manager's performance or delegations to the General Manager. However this report satisfies the requirement for the Council to review the General Manager's delegation within the first 12 months of the Council term.

## **CONCLUSION**

The updated Instrument of Delegation to the General Manager has been drafted to support the efficient and effective operations of Council. It is therefore recommended that the updated Instrument of Delegation to the General Manager be adopted.

## **RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Manager People and Culture, Peter Evans, who can be contacted on 9710 0308.

File Number: 2016/239953

## GENERAL MANAGER'S DELEGATION (Instrument of Delegation)

Pursuant to section 377 of the *Local Government Act 1993* and a resolution of the Council at its meeting held on XXXXXXXXXXXX, Sutherland Shire Council:

1. revokes all delegations granted to the General Manager prior to the date of this Instrument; and
2. delegates to the General Manager, or to the person who acts in that position, all of the functions, powers, duties and authorities of the Council that it may lawfully delegate under the *Local Government Act 1993*, any other Act, regulation, instrument, rule or the like (including any functions, powers, duties and authorities delegated to the Council by any authority, body, person or the like):
  - i. other than those functions prescribed in section 377(1) of the *Local Government Act 1993* as functions which may not be delegated; and  
subject to
  - ii. the Restrictions set out in Column 2 in respect of those functions listed in Column 1 of Schedule 1 of this Instrument, and
  - iii. compliance with any applicable resolution of the Council.

Pursuant to Section 68 of the Noxious Weeds Act 1993, and a resolution of the Council at its meeting held on 25 March 2013, Sutherland Shire Council delegates to the General Manager, or to the person who acts in that position, all of the functions under the Noxious Weeds Act 1993, including but not limited to the function of appointing inspectors for the purpose of the Noxious Weeds Act 1993.

## SCHEDULE 1

	Column 1	Column 2
	Function*	Restriction**
1.	<p><b>Claims against the Council:</b> Settling claims against the Council (including Workers' Compensation, Public Liability, Professional Indemnity and Motor Vehicle claims).</p>	<p>1.1 The General Manager cannot do so where the claim exceeds \$100,000, and not more than \$500,000 without the concurrence of the Mayor. Further, claims can only be settled where the General Manager is of the opinion that Council's interests would best be served by avoiding the matter being determined by a court or other person or body.</p>
2.	<p><b>Community Management Committees:</b> Appointing members as delegates of the Council.</p>	<p>2.1 The General Manager cannot do so without the concurrence of the Mayor.</p>
3.	<p><b>Conferences, seminars and courses:</b> Approving the attendance of Councillors at conferences and seminars</p>	<p>3.1 The General Manager cannot do so without the concurrence of the Mayor and where there is a Council meeting between the date of the request and the closing date for registrations for the conference or seminar, PROVIDED THAT if it is outside Council's existing adopted budget ONLY in urgent or extenuating circumstances AND with the concurrence of the Deputy Mayor as well.</p>
4.	<p><b>Council recess:</b> Notwithstanding any other provision of this Instrument, the functions of dealing with and making decisions in respect of any matter that requires a resolution of the Council during the following Council recesses:</p> <p>(i) Between the last meeting of the Council for the year and the first meeting of the Council in the following year; and</p>	<p>4.1. In relation to (i) the General Manager cannot do so without the concurrence of the Mayor, PROVIDED THAT if it is outside Council's existing adopted budget ONLY in urgent or extenuating circumstances AND with the concurrence of the Deputy Mayor as well</p> <p>In relation to (ii) the General Manager cannot do so without the concurrence of the Mayor, PROVIDED THAT if it is outside Council's</p>

	Column 1	Column 2
	Function*	Restriction**
	<p>(ii) Between the last meeting of the Council term and the day appointed for the next ordinary election;</p> <p>(iii) Between the day appointed for the ordinary election and the election of the Mayor.</p>	<p>existing adopted budget ONLY in urgent or extenuating circumstances AND with the concurrence of the Deputy Mayor as well</p> <p>In relation to (iii) the General Manager cannot do so without the concurrence of the Director Corporate Support.</p>
5.	<p><b>Debts and extra charges (other than rates):</b> Writing off debts and charges (other than rates).</p>	<p>5.1 The General Manager cannot do so where the amount exceeds \$10,000 in any one instance. Further, debts can only be written off where the General Manager is of the opinion that they are either not recoverable or uneconomical to recover.</p>
6.	<p><b>Development assessment:</b></p> <p>(i) Exercising Council's functions under Part 4 of the Environmental Planning and Assessment Act, 1979, State Environmental Planning Policy No.1 – Development Standards and Council's authority under Clause 4.6 of Sutherland Shire Local Environmental Plan 2015 in relation to the determination of development applications, modification applications and review of determination applications; and</p> <p>(ii) Granting development consent or modifying a consent pursuant to Part 4 of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>(iii) Notwithstanding any other provision of this Instrument (including 61 in Column 2), the General Manager is authorised to determine any application in accordance</p>	<p>6.1 In relation to (ii): Subject to (iii) in Column 1, the General Manager cannot do so:</p> <p>(a) if, before the application is determined, a minimum of three Councillors (with at least one of whom being a Councillor representing the Ward to which the matter relates) advises the Manager Governance and Customer Service that they wish for the application to be considered by the Independent Hearing and Assessment Panel (IHAP).</p> <p>(b) if a Councillor, a staff member or Council is the applicant or land owner or where a declaration of affiliation has been completed by the applicant or property owner, unless the Director Shire Planning in consultation with the General Manager determines that it is appropriate to do so after giving consideration to the following:</p>

	<b>Column 1</b>	<b>Column 2</b>
	<b>Function*</b>	<b>Restriction**</b>
	<p>with Part 4 of the <i>Environmental Planning and Assessment Act 1979</i> where the application has been referred to the General Manager for determination by a decision of the Shire Planning Committee or the Council.</p>	<ul style="list-style-type: none"> <li>i. The extent to which the development complies with the controls in Council's LEP and DCP;</li> <li>ii. Whether any objections have been received and the reasonableness of the objections, taking into account any guidance from Council's LEP and DCP on the issues raised; and</li> <li>iii. Whether the circumstances warrant assessment by an external professional, a peer review of an assessment undertaken by Council staff, and/or referral of the application to IHAP.</li> <li>iv. The relationship of the staff member or person identified in the declaration to the Council and staff involved in assessing applications.</li> </ul> <p>(c) If the development application is considered by the IHAP</p>
7.	<p><b>Emergency situations and urgent works:</b> Approving urgent work.</p>	<p>7.1 The General Manager cannot do so unless of the opinion that the work is urgent and required to protect persons, property and/or the environment and is in the public interest and the total cost will not exceed \$500,000.</p> <p>7.2 Any emergency works authorised with a value exceeding \$150,000 shall be reported to the next available Ordinary Meeting of Council for the Council's information.</p>
8.	<p><b>Execution of documents:</b> Executing agreements and documents to sell, exchange, surrender, purchase or lease any item of plant or equipment (including motor vehicles)</p>	<p>8.1 The General Manager cannot do so where the maximum written down value exceeds \$150,000.</p>

	Column 1	Column 2
	Function*	Restriction**
9.	<p><b>Financial Assistance:</b></p> <p>Contribute money or otherwise grant financial assistance to persons under section 356 of the <i>Local Government Act 1993</i></p>	<p>9.1 The General Manager can only do so if:</p> <p>(a) the financial assistance is part of a specified program; and</p> <p>(b) the program is included in the Council's draft operational plan for the year in which the financial assistance is proposed to be given; and</p> <p>(c) the program's proposed budget for that year does not exceed 5 per cent of Council's proposed income from the ordinary rates levied for that year; and</p> <p>(d) the program applies uniformly to all persons within the council area or to a significant proportion of all the persons within the council area.</p>
10.	<p><b>Court Proceedings:</b></p> <p>Notwithstanding any other provision of this Instrument, the General Manager is authorised to settle proceedings in Court or not press an issue or matter in the proceedings (including where a development application is the subject of the appeal and has been refused by resolution of the Council).</p>	<p>10.1 The General Manager cannot do so unless of the opinion that this course of action is appropriate.</p>
11.	<p><b>Organisational structure:</b></p> <p>Determining the organisational structure of the Council.</p>	<p>11.1 The General Manager can only do so in the case of a Senior Staff, subject to prior consultation with Council; and any consultation required under any relevant Enterprise Agreement, Award and Council Policy.</p>

	Column 1	Column 2
	Function*	Restriction**
12.	<p><b>Property management:</b></p> <p>(i) Executing residential leases;</p> <p>(ii) Executing licence and lease agreements (other than residential leases) for the occupation of Council land or buildings;</p> <p>(iii) Terminating residential leases and licences;</p> <p>(iv) Implementing rent reviews; and</p> <p>(v) Representing the Council on owners corporations.</p>	<p>12.1 In relation to (i): The General Manager cannot do so unless the lease has been authorised by the Council.</p> <p>12.2 In relation to (ii): The General Manager cannot do so unless the term of the proposed lease or licence does not exceed five years and the consideration does not exceed \$200,000 per annum.</p> <p>12.3 In relation to (iii): The General Manager cannot do so unless termination facilitates a related resolution of Council, demolition of the structure is necessary or the economic return on the premises does not justify continuation.</p> <p>12.4 In relation to (iv): The General Manager cannot do so unless the lease permits review of the rent.</p> <p>12.5 In relation to (v): The General Manager cannot vote to dispose of or lease Council's interest unless authorised by Council resolution or the lease is not a residential lease and it will comply with 12.2 above.</p>
13.	<p><b>Rates and charges:</b></p> <p>Writing off amounts for rates and charges.</p>	<p>13.1 The General Manager cannot write off amounts exceeding \$10,000 in any one assessment.</p>
14.	<p><b>Staff gratuities and supplementary superannuation:</b></p> <p>Authorising the payment of:</p> <p>(i) staff gratuities; and</p> <p>(ii) supplementary superannuation.</p>	<p>14.1 In relation to (i): The General Manager cannot do so unless the payment is in respect of an eligible member of staff and is</p>



	<b>Column 1</b>	<b>Column 2</b>
	<b>Function*</b>	<b>Restriction**</b>
		<p>in accordance with the policy adopted by the Council by Minute 154 of 15 February 1969.</p> <p>14.2 In relation to (ii): The General Manager cannot do so unless the payment is in respect of an eligible member of staff and is in accordance with the policy adopted by the Council by Minute 322 of 24 March 1969.</p>
15.	<p><b>Tenders, quotations and expressions of interest:</b></p> <p>Accepting quotations and awarding contracts for the supply, purchase and/or sale of plant, equipment, motor vehicles, goods, materials and services (including works).</p>	<p>15.1 If the amount exceeds \$150,000, the General Manager cannot do so if the tender, called under s55 of the Local Government Act 1993, is to provide services currently provided by members of staff of the council.</p>

### **Notes to assist with interpretation**

- \* To avoid doubt, the list of functions in Column 1 is not to be read as the list of total functions delegated to the General Manager pursuant to this Instrument. Column 1 merely lists those functions which are subject to restrictions as specified in Column 2.
- \*\* To avoid doubt, any monetary amount shown is inclusive of GST where applicable.

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**MOT016-17      SHIRE WIDE PARKING IMPROVEMENT PROCESS**

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Pursuant to Notice, Councillor Simpson submitted the following Motion:

THAT:

1. Council set up to \$100,000 as a budget item in the 2017/18 budget for Shire wide parking improvement process.
2. A working group chaired by the Mayor, with interested stakeholders be formed, for a period of up to six months to discuss opportunities for the Shire to improve parking management.
3. An evaluation team be appointed to cost, evaluate and rank all parking reforms proposals received from the working group.
4. A final report be presented to Council in the second half of 2017 on recommendations in the short, medium and long term for possible Shire parking solutions.

File Number: 2015/82011

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**MOT017-17      PLANNING PROPOSAL AT 10-14 MERTON STREET, SUTHERLAND**

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**MOT017-17**

Pursuant to Notice, Councillor Steinwall submitted the following Motion:

THAT:

1. In response to correspondence dated 28 November 2016 from the Director, Sydney Region East, Department of Planning and Environment advising Council of an upcoming 'pre-Gateway review' for 10-14 Merton Street, Sutherland, Council urgently writes to the Sydney South District Commissioner, Greater Sydney Commission:
  - i. Advising of Council's March 2016 resolution in opposition to the rezoning of the land on grounds that it would result in development that is inconsistent with the character, bulk and scale of surrounding development; would unreasonably overshadow existing residential buildings to the south; and fails to demonstrate that future units would meet the minimum amenity standards established by the Apartment Design Guidelines; and
  - ii. Requesting that Council officers be permitted to attend and make oral representations to the Sydney South Planning Panel outlining Council's adopted opposition to the rezoning of the land.
2. Within one week of Council being formally notified of Planning Proposals lodged with the Greater Sydney Commission and significant steps in the process such as 'pre-Gateway reviews', Councillors be informed of the matter via the Councillors Bulletin.

File Number: 2015/87412

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**MOT018-17      COMMUNITY ENGAGEMENT FORUMS**

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**MOT018-17**

Pursuant to Notice, Councillor Nicholls submitted the following Motion:

THAT:

1. Councillors be provided a briefing on the introduction of Community Engagement Forums.
2. The briefing be provided by March 2017 and will include, but is not limited to, the following:
  - a) The financial implications (including the advertisement of these forums)
  - b) The implications in terms of resources with council officers
  - c) Frequency
  - d) Suggested locations (including Ward specific areas and high profile locations)
3. Council note in principle support for this initiative.

File Number: 2015/26485

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**MOT019-17      LIMITATIONS OF USE OF THE MAYOR'S DELEGATED AUTHORITY**

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**MOT019-17**

Pursuant to Notice, Councillor Simpson submitted the following Motion:

THAT:

1. Except in urgent and/or extenuating circumstances and with the concurrence of the Deputy Mayor and the General Manager, the Mayor's delegated authority not extend in a manner that would result in the Mayor binding or otherwise committing Council to any decisions that result in payments to external parties, the entering into or amendment of any leases or Council providing goods, services or infrastructure outside of Council's existing adopted budget.
2. For the removal of any doubt, this Motion is not applicable in respect of the Mayor's current delegated authority concerning the settlement of legal actions.

File Number: 2015/38803

**CONFIDENTIAL REPORTS OF THE CORPORATE GOVERNANCE COMMITTEE HELD  
ON 5 DECEMBER 2016**

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In accordance with Section 10A(1) of Local Government Act 1993, the following matter will be considered in the Closed Session:

**GOV001A-17      PROPOSED VOLUNTARY PLANNING AGREEMENT KIRRAWEE BRICKPITS,  
566-594 PRINCES HIGHWAY, KIRRAWEE****Section 10A(2)(d)(ii) Commercial Information of a Confidential Nature:**

This matter is being considered in Closed session as it relates to commercial information the disclosure of which would be likely to confer a commercial advantage on a competitor of the council. On balance, the public interest in preserving the confidentiality of information relating to council's commercial activities outweighs the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information could allow competitors to council's commercial activities to gain a commercial advantage.

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**CONFIDENTIAL REPORTS OF THE SHIRE SERVICES COMMITTEE HELD ON 5 DECEMBER 2016**

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In accordance with Section 10A(1) of Local Government Act 1993, the following matter will be considered in the Closed Session:

**SER001A-17      LEGAL ADVICE AND FURTHER REPORT - REQUEST TO GRANT A RIGHT OF CARRIAGEWAY OVER 39R PRESIDENT AVE CARINGBAH**

**Section 10A(2)(g) Advice Concerning Litigation, or Advice that would Otherwise be Privileged from Production in Legal Proceedings on the Grounds of Legal Professional Privilege.**

This matter is being considered in Closed session as it relates to the receipt and consideration of legal advice concerning litigation; or which would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege. On balance, the public interest in preserving the confidentiality of information relating to legal privileged information outweighs the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information may result in council waiving its right to claim legal professional privilege in any relevant legal action which may lead to loss or damage by council.

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## **CONFIDENTIAL REPORTS OF THE SHIRE INFRASTRUCTURE COMMITTEE HELD ON 5 DECEMBER 2016**

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In accordance with Section 10A(1) of Local Government Act 1993, the following matters will be considered in the Closed Session:

### **INF004A-17      TENDER FOR PUBLIC AMENITIES CLEANING AND HYGIENE SERVICES**

#### **Section 10A(2)(d)(i) Commercial Information of a Confidential Nature:**

This matter is being considered in Closed session as it relates to commercial information the disclosure of which would be likely to prejudice the commercial position of the person, company or tenderer who supplied it. On balance, the public interest in preserving the confidentiality of information provided by persons, companies or tenderers outweighs the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information could reveal information that is commercial in confidence and the release of which could damage the commercial position of the person, company or tenderer who supplied it.

### **INF005A-17      TENDER FOR BUSHLAND REGENERATION & WEED CONTROL**

#### **Section 10A(2)(d)(i) Commercial Information of a Confidential Nature:**

This matter is being considered in Closed session as it relates to commercial information the disclosure of which would be likely to prejudice the commercial position of the person, company or tenderer who supplied it. On balance, the public interest in preserving the confidentiality of information provided by persons, companies or tenderers outweighs the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information could reveal information that is commercial in confidence and the release of which could damage the commercial position of the person, company or tenderer who supplied it.

### **INF006A-17      T649/16 COMO POOL PATH STAGE 2 - DETAIL DESIGN AND CONSTRUCTION**

#### **Section 10A(2)(d)(i) Commercial Information of a Confidential Nature:**

This matter is being considered in Closed session as it relates to commercial information the disclosure of which would be likely to prejudice the commercial position of the person, company or tenderer who supplied it. On balance, the public interest in preserving the confidentiality of information provided by persons, companies or tenderers outweighs the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information could reveal information that is commercial in confidence and the release of which could damage the commercial position of the person, company or tenderer who supplied it.



**INF007A-17      T650/16 JOSEPH BANKS NATIVE PLANTS RESERVE STAGES 2 & 3 - PICNIC AREA AND POND****Section 10A(2)(d)(i) Commercial Information of a Confidential Nature:**

This matter is being considered in Closed session as it relates to commercial information the disclosure of which would be likely to prejudice the commercial position of the person, company or tenderer who supplied it. On balance, the public interest in preserving the confidentiality of information provided by persons, companies or tenderers outweighs the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information could reveal information that is commercial in confidence and the release of which could damage the commercial position of the person, company or tenderer who supplied it.

**INF008A-17      T667/16 DESIGN AND CONSTRUCTION OF THE WOOLLOOWARE BAY SHARED PATHWAY, STAGE 6****Section 10A(2)(d)(i) Commercial Information of a Confidential Nature:**

This matter is being considered in Closed session as it relates to commercial information the disclosure of which would be likely to prejudice the commercial position of the person, company or tenderer who supplied it. On balance, the public interest in preserving the confidentiality of information provided by persons, companies or tenderers outweighs the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information could reveal information that is commercial in confidence and the release of which could damage the commercial position of the person, company or tenderer who supplied it.

**INF009A-17      T669/16 SYLVANIA SHOPPING CENTRE UPGRADE****Section 10A(2)(d)(i) Commercial Information of a Confidential Nature:**

This matter is being considered in Closed session as it relates to commercial information the disclosure of which would be likely to prejudice the commercial position of the person, company or tenderer who supplied it. On balance, the public interest in preserving the confidentiality of information provided by persons, companies or tenderers outweighs the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information could reveal information that is commercial in confidence and the release of which could damage the commercial position of the person, company or tenderer who supplied it.

**INF010A-17      T670/16 DESIGN AND INSTALL A WATER FILTRATION SYSTEM FOR THE RIDGE GOLF COURSE****Section 10A(2)(d)(i) Commercial Information of a Confidential Nature:**

This matter is being considered in Closed session as it relates to commercial information the disclosure of which would be likely to prejudice the commercial position of the person, company or tenderer who supplied it. On balance, the public interest in preserving the confidentiality of information provided by persons, companies or tenderers outweighs the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information could reveal information that is commercial in confidence and the release of which could damage the commercial position of the person, company or tenderer who supplied it.