



Business Paper

Council Meeting

Monday, 20 August 2018

6.30pm

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

SUTHERLANDSHIRE

ORDER OF BUSINESS**1. ACKNOWLEDGEMENT OF COUNTRY****2. OPENING PRAYER / RELIGIOUS OBSERVANCE****3. APOLOGIES****4. DISCLOSURES OF INTEREST****5. CONFIRMATION OF MINUTES OF THE PREVIOUS MEETINGS****6. PRESENTATIONS**

Mr Benjamin Bruckard, student at St John Bosco College, will present his winning speech titled "Plastics.... Pollution, Problem, Parasites" from the 2018 Speaking 4 the Planet competition.

7. MAYORAL MINUTES

MM018-18 Mayoral Minute - Norman Douglas Provan - 12th Rugby League Immortal

8. REPORTS OF THE CORPORATE GOVERNANCE COMMITTEE HELD ON 6 AUGUST 2018

GOV033-18 Cash Payments and Investments Report - June 2018

GOV034-18 Minutes of the Audit, Risk and Improvement Committee Meeting held on 4 July 2018

GOV035-18 Request for Financial Assistance - Chuo and Lakewood Sister City Committees, Youth Exchange Program

9. REPORTS OF THE SHIRE SERVICES COMMITTEE HELD ON 6 AUGUST 2018

SER026-18 Proposed drainage easement - 171R Gannons Rd Caringbah South

SER027-18 Proposed drainage easement - 1R Dianella St, Caringbah

SER028-18 Proposed drainage easement - 1-9 Miyal Place, Engadine

10. REPORTS OF THE SHIRE INFRASTRUCTURE COMMITTEE HELD ON 6 AUGUST 2018

INF036-18 Proposed Naming of Woollooware Bay Lookout

INF037-18 Acquisition of land for Road Widening Purposes at 422 Kingsway Caringbah

INF038-18 Usage of Geelong Road/Geneva Place Reserve, Engadine

INF039-18 Open Space Naming Proposal - Greenhills Beach Estate

INF040-18 Proposal to Change Reserve Name from Hawkesbury Park to "James Goyen Reserve"

INF041-18 Performance of Domestic Waste Services 2017/18

11. REPORTS OF THE SHIRE PLANNING COMMITTEE HELD ON 6 AUGUST 2018

- PLN038-18 Results of Exhibition of Draft Amended Strategy for Finalisation of old S94 and S94A Plans
- PLN039-18 Local Planning Panel - Pre-Existing Non-Compliances

12. REPORTS FROM OFFICERS

- COR030-18 Status of Bundeena Paper Roads
- COR031-18 Report and Minutes of the Meetings of the Sutherland Traffic and Traffic Safety Committee and Consultative Traffic Forum held on Friday, 3 August 2018

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

- MOT025-18 Centenary of the Armistice 1918
- MOT026-18 Return of Planning Powers to Council
- MOT027-18 Tourism Campaign Cronulla
- MOT028-18 Ice Skating Rink in Cronulla
- MOT029-18 Drought Relief Assistance

15. PRESENTATION OF PETITIONS**16. QUESTIONS****17. NON AGENDA ITEMS****18. CONSIDERATION OF BUSINESS IN CLOSED SESSION****19. CONFIDENTIAL REPORTS OF THE SHIRE INFRASTRUCTURE COMMITTEE HELD ON 6 AUGUST 2018**

- INF009A-18 Works In Conjunction with Development - Pinnacle Street Miranda - Acceptance of Quotation

20. CONFIDENTIAL REPORTS FROM OFFICERS

**MM018-18 MAYORAL MINUTE - NORMAN DOUGLAS PROVAN - 12TH RUGBY
LEAGUE IMMORTAL**

MM018-18

Attachments: Nil

The Councillors of the Sutherland Shire

Dear Councillors

On 1 August 2018, Norman Douglas Provan was inducted as Rugby League's 12th Immortal, the highest accolade which can be bestowed on a rugby league player. I am sure Councillors will join me in congratulating Norm on receiving this highly respected and richly deserved recognition.

Norm Provan began his career at St George and from 1956–65 he played in ten winning grand finals as well as fourteen tests. He was also captain-coach for the team for four years from 1962 to 1965, and during this time, St George won 66 of its 81 matches for an incredible winning percentage of 81%.

Affectionately known as 'Sticks', Norm is no stranger to being recognised for this incredible career in rugby league. In 2015, he was inducted into the Rugby League Hall of Fame and was named one of Australia's greatest 100 players. In the 1963 grand final Norm's image was immortalised in John O'Gready's famous photograph, 'The Gladiators'.

Following his retirement in 1965, Norm continued to play a major role in rugby league when he returned to St George as a non-playing coach in 1968. In 1975 he steered Parramatta to their maiden first grade title and in 1978 was coach of Cronulla-Sutherland. In 1979 Cronulla-Sutherland won the Amco Cup.

Following his first grade coaching duties, Norm turned to Sutherland Shire Council where he served the community as a Councillor from 1968 to 1971. Council welcomed Norm's passion for sport which to this day is very important to us as it helps to build more connected, inclusive, healthier, happier and safer communities.

MOTION

THAT:

Council extends its congratulations to Mr Norman Provan on being inducted as Rugby League's 12th Immortal.



Councillor Carmelo Pesce
Mayor

File Number: 2017/287937

REPORTS OF THE CORPORATE GOVERNANCE COMMITTEE HELD ON 6 AUGUST 2018

GOV033-18 CASH PAYMENTS AND INVESTMENTS REPORT - JUNE 2018

EXECUTIVE SUMMARY

- This report provides details of Council's investment performance for the period ending 30 June 2018, 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 30 June 2018 was 2.66% compared to the benchmark of 1.78%.
- 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 30 June 2018, be received and noted.

**GOV034-18 MINUTES OF THE AUDIT, RISK AND IMPROVEMENT COMMITTEE MEETING
HELD ON 4 JULY 2018**

EXECUTIVE SUMMARY

- The Sutherland Shire Council Audit, Risk & Improvement Committee met on 4 July 2018.
- Minutes of the meeting are provided for the information of Council.
- Caroline Karakatsanis and Patrick Or (Audit Office NSW) attended the meeting to speak and present to report ARIC041-18, Auditor-General's Report to the Parliament of NSW on Local Government 2017. Phil O'Toole and Adil Nariman (Centium) also attended to present their report ARIC042-18 (findings) on Internal Audit of Grant Income Management and Administration.
- The Agenda for the meeting also included a number of reports prepared by various Business Unit Managers to address the requirements of the adopted Audit, Risk and Improvement Committee Charter.

COMMITTEE RECOMMENDATION

That the minutes of the meeting of the Sutherland Shire Council Audit, Risk and Improvement Committee held on 4 July 2018 be received and noted.

GOV035-18 REQUEST FOR FINANCIAL ASSISTANCE - CHUO AND LAKEWOOD SISTER CITY COMMITTEES, YOUTH EXCHANGE PROGRAM

EXECUTIVE SUMMARY

- Sutherland Shire Council has had long standing 'Sister City' relationships with the City of Lakewood (Colorado, USA) and Chuo City (Japan).
- A key component of the Sister City relationships is the annual Youth Exchange Programs. The program is organised by the community run Lakewood and Chuo Committees and Council has provided modest grants to support the Youth Exchange program over many years.
- The Sutherland Shire-Lakewood Sister City Committee and Sutherland Shire-Chuo Sister City Committee have submitted grant requests for the 2018/19 Youth Exchange programs.
- Whilst this financial assistance is requested under Section 356 of the *Local Government Act 1993*, it is not part of the community grants program as it is considered a program of the sister city relationships held by Council.

COMMITTEE RECOMMENDATION

THAT:

1. That pursuant to Section 356 of the Local Government Act, 1993 - funds of \$6,901.57 be provided to the Sutherland Shire-Lakewood Sister City Committee Inc.
2. That pursuant to Section 356 of the Local Government Act, 1993 - funds of \$9,000.00 be provided to the Sutherland Shire-Chuo City Committee Inc.

REPORTS OF THE SHIRE SERVICES COMMITTEE HELD ON 6 AUGUST 2018

**SER026-18 PROPOSED DRAINAGE EASEMENT - 171R GANNONS RD CARINGBAH
SOUTH****EXECUTIVE SUMMARY**

- The owner of 75 Saunders Bay Rd, Caringbah South has been granted consent to demolish an existing dwelling to subdivide the property.
- In accordance with Council's development consent DA18/0083 the owner is required to obtain a drainage easement for the discharge of stormwater from the property into the nearest Council drainage system located downhill from the development.
- The easement is to be located across Council owned drainage reserve land at 171R Gannons Rd, Caringbah South (Lot 8 DP 788203).
- The compensation payable to Council for encumbering its land with a drainage easement has been calculated as per Council's adopted Fee and Charge rate.
- The property owner will be responsible for all costs associated with the granting of the easement.

COMMITTEE RECOMMENDATION

THAT:

1. An easement for drainage services be granted over Council land described as 171R Gannons Rd, Caringbah South (Lot 8 DP 788203) in favour of 75 Saunders Bay Road, Caringbah South (Lot 127 DP 5179) at terms and conditions to the General Manager satisfaction.
2. 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.

SER027-18 PROPOSED DRAINAGE EASEMENT - 1R DIANELLA ST, CARINGBAH**EXECUTIVE SUMMARY**

- The owner of 7 Dianella Street, Caringbah have been granted consent to build a multi dwelling residential development.
- In accordance with Council's development consent DA15/1178 the owner is required to obtain a drainage easement for the discharge of stormwater from its property into the nearest Council drainage system located downhill from their development.
- The easement is to be located on Council owned land at 1R Dianella Street, Caringbah (Lot 2 DP205393).
- The compensation payable to Council for encumbering it's land with a drainage easement has been determined.
- The property owner will be responsible for all costs associated with the granting of the easement.

COMMITTEE RECOMMENDATION

THAT:

1. An Easement for drainage services be granted over Council land described as 1R Dianella Street, Caringbah (Lot 2 DP205393) in favour of 7 Dianella Street, Caringbah (Lot 100 DP 1221677) at terms and conditions to the General Manager satisfaction.
2. 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 these resolutions.

SER028-18 PROPOSED DRAINAGE EASEMENT - 1-9 MIYAL PLACE, ENGADINE**EXECUTIVE SUMMARY**

- The owners of 1081-1091 Old Princes Highway, Engadine are constructing a mixed use commercial and residential development.
- In accordance with the development consent DA15/1325 the owner is required to obtain a drainage easement for the discharge of stormwater from its property into the nearest Council drainage system located downhill from the development on Council land.
- The easement is to be located on Council owned land used as a carpark at 1-9 Miyal Place, Engadine (Lot 4 DP 505810).
- The compensation payable to Council for encumbering it's land with a drainage easement has been determined.
- The property owner will be responsible for all costs associated with the granting of the easement and there will be no cost to Council.

COMMITTEE RECOMMENDATION

THAT:

1. An Easement for drainage services be granted over Council land described as 1-9 Miyal Place, Engadine (Lot 4 DP 505810) in favour of 1081-1091 Old Princes Highway, Engadine (Lot 888 DP1238435) at terms and conditions to the General Manager satisfaction.
2. 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 these resolutions.

REPORTS OF THE SHIRE INFRASTRUCTURE COMMITTEE HELD ON 6 AUGUST 2018

INF036-18 PROPOSED NAMING OF WOOLLOOWARE BAY LOOKOUT**EXECUTIVE SUMMARY**

- By Mayoral Minute No. 19/13-14 on 10 February 2014, Council recorded the passing of the Hon. Arthur Thomas Gietzelt AO (28 December 1920 – 5 January 2014) and acknowledged his achievements, particularly as Shire President and Sutherland Shire Councillor.
- It was resolved that Council give consideration to the naming of a Sutherland Shire facility in honour of this former long serving councillor and Shire President.
- It is proposed that the new Woollooware Bay Stage 6 shared pathway shelter be named “Gietzelt Lookout” in honour of the late Arthur Gietzelt’s local community service and in recognition of his efforts to prevent the building of a second airport at the Towra Point and also preserving the habitat of internationally protected migratory seabirds.

COMMITTEE RECOMMENDATION

THAT:

1. The large shelter in Woollooware Bay Stage 6 shared pathway be nominated the “Arthur Gietzelt Memorial Lookout” in honour of Arthur Gietzelt’s many achievements as Shire President and Sutherland Shire Councillor, and particularly his efforts in preserving Towra Point for future generations.
2. The proposal to name the shelter within the Woollooware Bay Stage 6 Shared Pathway the “Gietzelt Lookout” be endorsed in-principle and actioned for facility naming in accordance with the Naming of Public Open Space & Facilities Policy.

**INF037-18 ACQUISITION OF LAND FOR ROAD WIDENING PURPOSES AT 422
 KINGSWAY CARINGBAH**

EXECUTIVE SUMMARY

- The area between Sutherland Hospital and the existing commercial centre of Caringbah is being redeveloped to provide high density housing and medical practices (the Medical Precinct).
- The intersection of Kingsway and Hinkler Avenue, needs to be improved in order to cater for increased use by commercial vehicles servicing the new precinct.
- In order to maintain a satisfactory footpath width following road intersection improvements, it is necessary to acquire approximately five square metres of land from No. 422 Kingsway at the corner of Hinkler Avenue.
- Council staff have obtained an independent land valuation and have negotiated satisfactory terms with the owner of No. 422.

COMMITTEE RECOMMENDATION

THAT:

1. Council approve the acquisition of part of Lot 1 in DP 819178, known as No. 422 Kingsway Caringbah, on terms and conditions satisfactory to the General Manger.
2. The General Manager execute any necessary documentation to give effect to this resolution in accordance with Power of Attorney dated 6 July 2016 BK 4710 No. 28.

INF038-18 USAGE OF GEELONG ROAD/GENEVA PLACE RESERVE, ENGADINE**EXECUTIVE SUMMARY**

- Bike riding and the construction of informal recreation areas is an activity popular with children and youth, and is a common occurrence in reserves throughout Engadine.
- Council has previously resolved to undertake routine maintenance of informal recreation areas at Lantana Road Reserve, Brigalow Place Reserve, and Geelong Road/Geneva Place Reserve in Engadine.
- Following the resolution, Councillors and Council staff have received feedback from residents adjoining these reserves, and other reserve users about the impact of bike riding on their amenity.
- It is recommended that alternative sites be determined following further consultation between Ward Councillors, stakeholders, and the children currently engaging in bike riding activities.

COMMITTEE RECOMMENDATION

That Council engages with Engadine residents, bike riders and the wider community on the possible use of alternative sites nominated in this report for bike riding activities currently taking place in Geelong Road Reserve/Geneva Place Reserve, Engadine.

INF039-18 OPEN SPACE NAMING PROPOSAL - GREENHILLS BEACH ESTATE**EXECUTIVE SUMMARY**

- Council has previously resolved to endorse the name “Don Dobie Reserve” for the land located at 422 Captain Cook Drive, Greenhills Beach after the late the Hon. James Donald Mathieson “Don” Dobie.
- A formal submission on the name was made to the Geographical Names Board (GNB), who considered the proposal at their March 2018 Board Meeting and endorsed the name for the purposes of community feedback.
- The most recent advice from the GNB relating to the notification period was not supportive of the name change. Fourteen community submissions were received objecting to the name and one submission supporting the name “Don Dobie Reserve”.
- The Board has referred the proposal back to Council.
- Based on GNB advice it is recommended that the “Don Dobie Reserve” naming proposal be discontinued, and that a proposal to name the lookout facility at Wanda Beach “Don Dobie Memorial Lookout” be endorsed in-principle for facility naming action under the Naming of Public Open Space & Facilities Policy.

COMMITTEE RECOMMENDATION

That this item be referred to the Council Meeting on 20 August 2018 for consideration.
--

**INF040-18 PROPOSAL TO CHANGE RESERVE NAME FROM HAWKESBURY PARK TO
"JAMES GOYEN RESERVE"****EXECUTIVE SUMMARY**

- Council has previously resolved to consider changing the name of Hawkesbury Park located at 1R Moruya Avenue, Sylvania Waters to "James Goyen Reserve" in honour of late local resident James Goyen.
- A formal submission on the name was made to the Geographical Names Board (GNB), which considered the proposal at their March 2018 Board Meeting and approved the name for advertising.
- Following advice from the GNB that the community during the advertising period was not supportive of the name change the proposal has been sent back to Council.
- This report recommends that the established name for Hawkesbury Park be retained, and that proponent of the name change be advised of the feedback received from the GNB.

COMMITTEE RECOMMENDATION

That this item be referred to the Council Meeting on 20 August 2018 for consideration.
--

INF041-18 PERFORMANCE OF DOMESTIC WASTE SERVICES 2017/18**EXECUTIVE SUMMARY**

- Sutherland Shire Council's Domestic Waste Service provides a highly valued service to 84,560 residential properties at a lower cost to other comparable Councils.
- A total of 102,773 tonnes of material was collected with over 51,000 tonnes being recycled.
- The total waste generated per capita has reduced by 4.1% over the last ten (10) years.
- Sutherland Council's current diversion from landfill is 50%. The NSW State Government has set a target of 75% diversion from landfill by 2022. A 75% diversion from landfill will be possible if an Alternate Waste Technology (AWT) or Energy from Waste (EfW) solution can be found.
- Increased targeted education programmes will assist in reducing an estimated 12% of material in the garbage (red lid) that can be recycled.
- Council remains committed to operating a Community Recycling Centre. Several meeting and numerous exchanges of correspondence have taken place with NSW Environment Protection Agency (NSW EPA) and Southern Sydney Regional Organisation of Councils (SSROC) over the last six months. Negotiations with the NSW EPA and SSROC are continuing on a more affordable funding model to operate.

COMMITTEE RECOMMENDATION

THAT:

1. Council receives and notes Council's domestic waste diversion in 2017/18 was 50%.
2. A further report on the final outcome of the negotiations with the NSW EPA and SSROC be provided to Council.
3. A Waste Services Working Party be formed.

REPORTS OF THE SHIRE PLANNING COMMITTEE HELD ON 6 AUGUST 2018

**PLN038-18 RESULTS OF EXHIBITION OF DRAFT AMENDED STRATEGY FOR
FINALISATION OF OLD S94 AND S94A PLANS****EXECUTIVE SUMMARY**

- With the commencement of new s.94 and s.94A plans in January 2017, a “Strategy for Finalisation of old S94 and S94A Plans” was adopted. The strategy sets out the details for reconciliation of funds and projects from the 12 legacy Contribution Plans and is appended to the two current Development Contribution Plans.
- Council resolved to amend the works schedule in the strategy as well as allocating funds from the superseded 2003 Community Facilities Plan to the augmentation of the Sutherland Entertainment Centre (see COR18-18).
- This report presents the results of the public exhibition of the draft amended strategy, which was publicly exhibited from 23 May to 20 June 2018. No submissions were received and it is recommended that the draft amended strategy be adopted.

COMMITTEE RECOMMENDATION

That Council adopt the “Draft Amended Strategy for Finalisation of old S94 and S94A Plans” as exhibited.

PLN039-18 LOCAL PLANNING PANEL - PRE-EXISTING NON-COMPLIANCES**EXECUTIVE SUMMARY**

- In February 2018, the Minister for Planning released a new Direction to Councils prescribing which development applications must be determined by Local Planning Panels. One category prescribed is applications that contravene an LEP development standard by more than 10%.
- The trigger for referral of about 40% applications to the Sutherland Shire LPP has been pre-existing non-compliances with development standards greater than 10%. Over 90% of these relate to the landscaped area control and most were previously approved.
- The applications involved are typically 'mum and dad' additions to homes, swimming pools, etc.
- Consideration of a development application by the SSLPP incurs significant financial costs to Council and also delays assessment processing time, which is unnecessary for these DAs.
- The SSLPP has agreed with the officer's recommendation in all cases to date and there are typically no objectors in attendance at hearings, so the SSLPP adds little value in these cases.
- It is recommended that Council make a request to the Secretary of the Department of Planning and Environment for assumed concurrence to be able to determine applications with pre-existing non-compliances of more than 10% for the landscaped area, and to direct the SSLPP to delegate these applications to council staff to determine.

COMMITTEE RECOMMENDATION

THAT:

1. Council makes a request to the Secretary of the Department of Planning and Environment to allow concurrence to be assumed by Council staff for contravening the landscaped area development standard where pre-existing non-compliances result in a departure of more than 10%, and directs the Sutherland Shire Local Planning Panel to delegate these applications to Council staff to determine.
2. Quarterly reports be made to Councillors about pre existing non-complying development applications approved by Council staff through the Councillor Bulletin.

COR030-18 STATUS OF BUNDEENA PAPER ROADS

Attachments: Appendix A [↓](#)

EXECUTIVE SUMMARY

- Paper roads, also known as unformed legal roads, are roads that exist only on paper, never having been developed, but they have a legal existence, whether on private or public land.
- In December 2013 Council resolved “to clarify the ownership of the private subdivision roads at Sussex and Bournemouth Street, Bundeena via notice and dedication under section 16 and 17 of the Roads Act 1993 be approved.” (WKS037-14)
- Detailed investigation of Land Registry Services’ records revealed the paper roads were in the ownership of Edith Lucy Wolstenholme (or her Estate).
- The Executor of the Estate of Edith Lucy Wolstenholme has taken Supreme Court proceedings seeking probate to deal with the residuary of the Estate.
- Ownership of the unformed paper roads has been determined and agreed during proceedings in the Land and Environment Court.
- There is now no longer a need to dedicate the paper roads in order to clarify ownership.
- Council should proceed to dedicate the formed sections of Liverpool and Bournemouth Streets to ensure they are retained in Council ownership.

REPORT RECOMMENDATION

THAT:

1. Council give notice and proceed to dedicate the formed road reserve sections of Bournemouth and Liverpool Streets under section 16 and 17 of the Roads Act 1993.
2. Council not dedicate the unformed sections of Grosvenor, Liverpool, Bournemouth and Sussex Streets.
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 these resolutions.

PURPOSE

To inform Council of the reasons:

1. the paper roads at Bundeena have not been dedicated as public roads as per WKS037-14;
2. for recommending dedication of the formed sections of road not already in public ownership;
and
3. for not proceeding to dedicate the unformed sections of road.

In addition, it identifies the paper roads as well as formed roads not yet dedicated as public road in Bundeena.

BACKGROUND

There are a number of unformed pre-1920 paper roads in Bundeena being Grosvenor Street south, Liverpool Street, Bournemouth Street and Sussex Street.

The section of Grosvenor Street north of Sussex Street was resumed by Council in 1961 and is now owned in fee simple by Council. The other roads or sections of road have not been dedicated as public roads. These are either paper roads or sections of formed roads providing access to residences that have not yet been dedicated as public roads.

Council considered a number of reports on the unformed paper roads in Bundeena. Following is the sequence of those reports:

Report #	Council Meeting	Resolution summary
FIN153-13	24/6/2013	Transfer of 10-40 Sussex St (former Sanitary Depot) to NPWS
FIN008A-14	5/8/2013	Request from RVA to purchase part of paper road - matter deferred for adjoining land owners to comment on the proposal
WKS003-14	14/10/2013	Defer dedication of paper roads for discussion with RVA & NPWS
WKS037-14	16/12/2013	Dedicate the roads as public roads in order to clarify the ownership. Dedication of Bournemouth and Sussex Streets approved
BDS087-15	9/2/2015	Transfer of 10-40 Sussex St to NPWS, include unmade sections of paper roads in transfer, request Minister revoke playing fields from RNP
BDS116-15	20/4/2015	Transfer 10-40 Sussex St to NPWS and continue to pursue transfer of playing fields to Council. Report attached letter from Minister for Environment advising road ownership was in dispute and transfer of roads should wait until legal status confirmed.

In 2013 Council resolved to transfer its former Bundeena Sanitary Depot to NPWS for inclusion in the Royal National Park (RNP) in exchange for the three playing fields in the RNP at Loftus, Grays Point and Heathcote being transferred to Council. NPWS expressed an interest in having the paper roads in Bundeena that adjoin the RNP and the Sanitary depot included in the transfer.

Following Council's decision to transfer the Bundeena Sanitary Depot to National Parks and Wildlife Service (NPWS), RVA Australia Pty Ltd (RVA) expressed an interest to acquire the Sussex Street paper road from Council.

Disputed Ownership of the Paper Roads

Early investigations revealed the paper roads were in an original private subdivision of Owen Byrnes 400 acres as shown on DP1782 of 29 June 1886. The ownership of the paper roads was not clear; Council Report (WKS037-14) recommended taking action under section 16 and 17 of the Roads Act 1993 to dedicate the roads as public roads in order to clarify the ownership.

There were a number of parties interested in the roads. It was intended that once Council had ownership of the roads it could then decide what it would do with them, with the options being:

1. That the roads be left as dedicated public roads in Council's ownership, or
2. Close the road and sell Sussex Street to RVA, or
3. Close the roads for inclusion in the transfer of land to NPWS along with the adjoining Sanitary Depot.

The Council resolutions that stand are as follows:

WKS037-14 – 16/12/2013:

1. That approval to clarify the ownership of the private subdivision roads at Sussex and Bournemouth Street, Bundeena via notice and dedication under section 16 and 17 of the Roads Act 1993 be approved.
2. That a further report be provided after the ownership of the roads is clarified to determine the future use of the roads.

This report addresses 1 and 2 above and is intended to finalise these outstanding resolutions.

BDS116-15 - 20/4/2015:

1. That Council transfer the former Bundeena Night Soil Depot at 10-40 Sussex Street (Lots 15-18 Section K DP1782) to National Parks and Wildlife Service for inclusion in the Royal National Park at terms and conditions to the satisfaction of the General Manager.
2. That Council continue to pursue the Minister for Environment and Heritage for the revocation of the three playing fields at Loftus, Grays Point and Heathcote from the Royal National Park and the transfer of these parcels of land to Council.

DISCUSSION

Dedication of the paper roads under section 16 and 17 of the Roads Act 1993 for the purpose of determining ownership became unnecessary as Council received advice from a search of Land Registry Service records that the roads comprised part of residue land in Volume 3065 Folio 63 and these remained in the ownership of Edith Lucy Wolstenholme (or her Estate). During this time, RVA maintained that it owned half of the paper roads.

To dedicate paper roads as public roads, Council is required to serve notice on the owner of the land of its intention to dedicate. The owner then has appeal rights in the Land and Environment Court.

In December 2014, RVA lodged a Development Applications with Council (DA14/1239) seeking approval to use the paper roads for access and for an Asset Protection Zone (APZ) for bushfire requirements. In early January 2015, RVA filed two appeals in the Land and Environment Court. Council responded to RVA both in the DA and in the Land and Environment Court issues about the unresolved ownership of the paper roads.

Council sought a further expert opinion during the Court proceedings regarding the ownership of the paper roads and that expert opinion determined that the paper roads comprised part of residue land in Volume 3065 Folio 63 and these remained in the ownership of Edith Lucy Wolstenholme (or her Estate). RVA agreed with Council's position regarding the ownership of the paper roads.

Transfer of Paper Roads to NPWS

RVA subsequently reached agreement with the Executor of the Estate of Edith Lucy Wolstenholme to transfer all of the unformed paper roads into its ownership and further, RVA took proceedings in the Court to obtain an easement over the paper road for the purpose of establishment and maintenance of an APZ.

RVA have entered an agreement with NPWS for use of an access road from the end of Beachcomber Road to 60-70 Bournemouth Street in exchange for the remaining paper roads being transferred to the NPWS for inclusion into the RNP.

Transfer of Bundeena Sanitary Depot to NPWS

The Bundeena Sanitary Depot was transferred to NPWS and declared part of the Royal National Park in NSW Government Gazette No 70 of 14 August 2015 folio 2480.

Transfer to Council of Three Existing Playing Fields

The three playing fields have been revoked from the RNP, Council resolved (SER013-17) on 20 February 2017 to compulsorily acquire by agreement the three playing fields and the Minister for the Environment agreed for Council to proceed with the compulsory acquisition. Compulsory acquisition by agreement is the simplest and most cost-effective method for the transfer.

Council as well as NPWS rangers and officers met onsite in April 2018 to determine the boundaries and for Council's surveyors to take preliminary readings. Prior to this NPWS rangers were unavailable to progress the matter due to fire-fighting and back-burning responsibilities taking priority.

Council has appointed registered surveyors to survey the three playing fields to create plans of acquisition. Upon lodgement of the plans at Land Registry Services and the creation of the three separate lots and titles, it will be necessary to refer the compulsory acquisition matter to the Office of Local Government for the Minister for Local Government's approval and the Governor's endorsement.

Dedication of Formed Portions of the Roads

The northern section of Liverpool and Bournemouth Street are formed roads providing access to private and publically owned properties. Council maintains these as roads and it is therefore appropriate that the formed sections of these roads be dedicated as public roads. There is no objection from the Executor of the Estate of Edith Lucy Wolstenholme to Council dedicating these formed portions of road.

It is recommended Council take action under section 16 and 17 of the Roads Act to dedicate these sections of formed road.

RESOURCING STRATEGY IMPLICATIONS

Dedication of the formed sections of road at Liverpool and Bournemouth Streets will ensure Council has ownership of the roads that it has continued to maintain and improve as road and will ensure ongoing access for the community. Council already treats the formed sections of road as its own, as a result dedicating these as public road is not expected to have any additional impact on Council's long term financial position.

COMMUNITY ENGAGEMENT

The paper roads are substantially surrounded by RNP and discussions held with NPWS for these roads to be transferred and becoming part of RNP have been positive. NPWS would like to see these unformed roads integrated into the RNP.

STRATEGIC ALIGNMENT

The dedication of the formed sections of road meets the strategies in our adopted Delivery Program of:

Community Strategic Plan Strategy	Delivery Program (2017-2021) Deliverables
6.1 Plan and develop integrated transport networks to provide transport choices that allow people to get around in a safe, accessible and efficient manner.	6A Develop and implement an Integrated Transport Strategy and Plan

POLICY AND LEGISLATIVE REQUIREMENTS

There is no specific Council policy that relates to this matter.

For roads created in private subdivisions before 1920 Council must check the following:

1. that there is evidence of common law dedication;
2. whether the road forms any residue of a subdivided title; and
3. if there are any doubts about the status take action under section 16 and 17 of the Roads Act 1993 to dedicate the road as public road.

Until 1920 under common law, land may have become public road as a result of an intention by the owner to dedicate and an acceptance by the public. Ways that the intention to dedicate could be established under common law include:

- by written evidence expressing that intention; or
- by a course of action from which the intention could be inferred.

Acceptance by the public could be established by:

- written evidence of acceptance;
- use of the road by the public;
- the existence of public utilities within the road (electricity supply, sewerage services, etc.);
- expenditure of local council money on the upkeep of the road see s.249 Roads Act 1993.

Until 1 January 1920 roads provided in a private subdivision of freehold land usually comprised the residue of the subdivided title and remained in the name of the original subdivider. Section 16(2) Roads Act 1993 permits the Council, after serving notice on the owner, to publish a notice in the Government Gazette that the road is dedicated as public road. Section 17 requires Council to serve notice on the owner of the land and allows the owner to make application to the Land and Environment Court against the proposed dedication.

CONCLUSION

The ownership of the paper roads has been clarified. Council is not the owner of these paper roads. There is now no longer any reason for Council to proceed with notification, under the dedication of roads process, to determine ownership as was the intention of the resolution within WKS037-14.

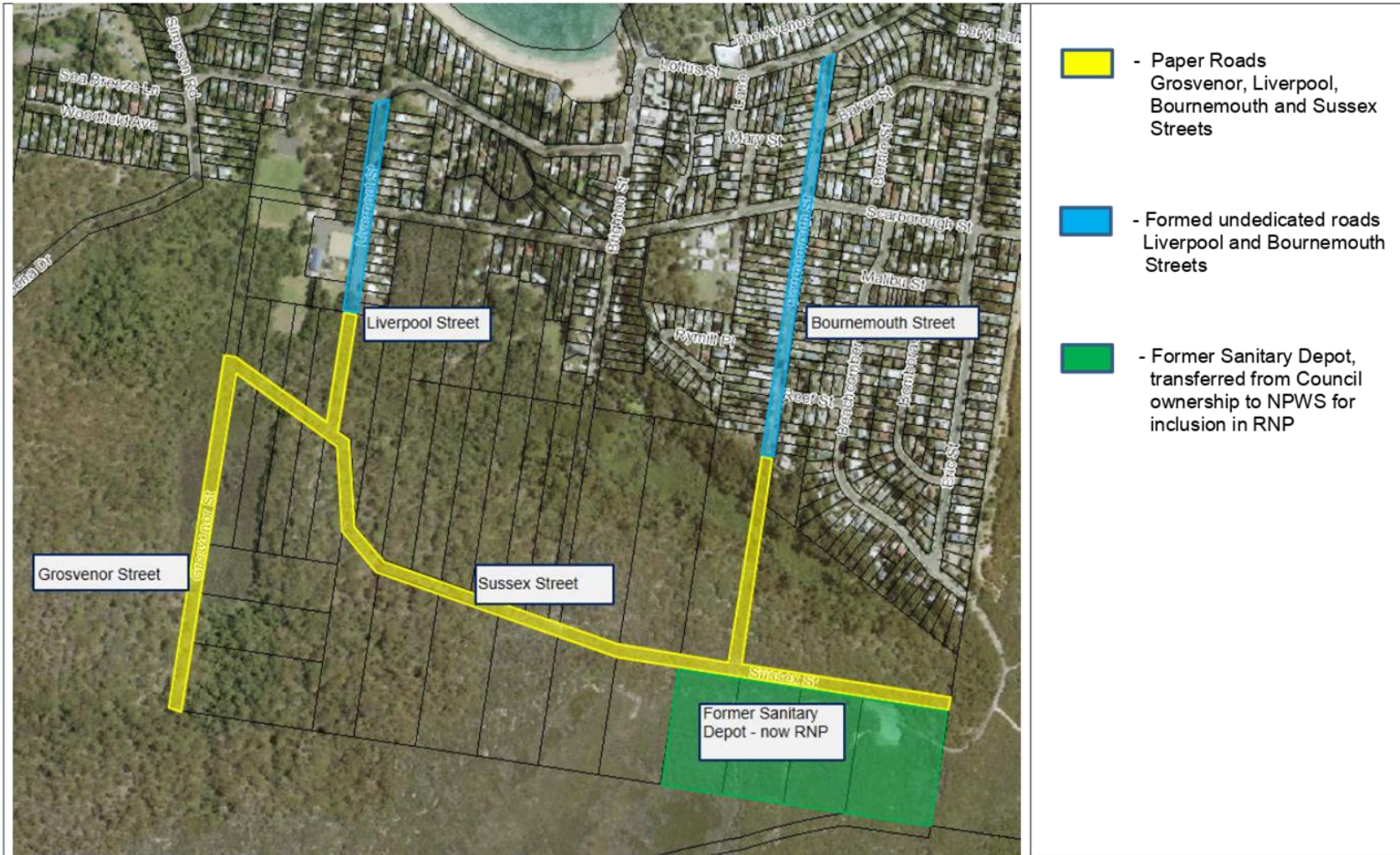
Dedication of the formed sections of road will ensure Council has ownership of the roads it maintains and improves and will provide residents with legal access to their properties via a public road.

RESPONSIBLE OFFICER

The officers responsible for the preparation of this report are the Manager Property Services and Council's Legal Advisor, who can be contacted on 9710 0614 and 9710 0228 respectively.

File Number: 2015/4664

Appendix A- Aerial Map of formed undedicated roads and paper roads



**COR031-18 REPORT AND MINUTES OF THE MEETINGS OF THE SUTHERLAND
TRAFFIC AND TRAFFIC SAFETY COMMITTEE AND CONSULTATIVE
TRAFFIC FORUM HELD ON FRIDAY, 3 AUGUST 2018**

Attachments: Nil

EXECUTIVE SUMMARY

- Meetings of the Sutherland Traffic and Traffic Safety Committee and Consultative Traffic Forum were held on Friday, 3 August 2018.
- The Minutes of the meetings are below.

REPORT RECOMMENDATION

THAT:

1. The committee recommendations contained in the Minutes of the Sutherland Traffic and Traffic Safety Committee Meeting held on Friday, 3 August 2018 be adopted.
2. The recommendations contained in the Minutes of the Consultative Traffic Forum Meeting held on Friday, 3 August 2018 be adopted.

Report and Minutes of the Meeting of the Sutherland Traffic and Traffic Safety Committee of the Sutherland Shire, held in the Administration Centre, Eton Street, Sutherland on Friday, 3 August 2018 commencing at 8.30am.

PRESENT: Councillor Croucher (Chairperson) together with Councillor McLean (Deputy Chairperson), Mr Tony Blain (representing Mr Lee Evans MP), Mr Mike Schraft (representing Mark Speakman MP), Senior Constable Rachel King (representing the NSW Police, Sutherland Shire Police Area Command), Sergeant Scott Robinson (representing the NSW Police, Sutherland Shire Police Area Command), Mr Michael Cutrupi (representing St George Cabs), Mr Mark Carruthers (representing Roads & Maritime Services), Mr Robert Rosadi (representing Roads & Maritime Services), Mr Rey Saballa (representing Roads & Maritime Services)

STAFF IN ATTENDANCE: Manager Traffic & Public Domain Services Executive Engineer (Mario Sherrie), and Governance Officer (Jill Bleszynski).

APOLOGY

Apologies were tendered on behalf of Mr Christian McLaughlin (representing Eleni Petinos MP) and Mr Daryl Ninham (representing Roads & Maritime Services)

DISCLOSURES OF INTEREST

There were no disclosures of interest declared.

CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

COMMITTEE RECOMMENDATION: (Councillor Croucher / Tony Blain)

That the Minutes of the Meeting of the Sutherland Traffic and Traffic Safety Committee held on Friday 06 July 2018 be confirmed as a correct record subject to following amendment:

STR097-18, Point 2, Dot Point 1 be amended to read "Hay Avenue to become two way".

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

STR105-18 **Box Road, Taren Point and Kumulla Road, Miranda - Proposed Parking Changes**
File Number: 2018/301988

Mr Robert Rosadi & Mr Rey Saballa (representing Roads & Maritime Services) addressed the Committee on this matter then left the meeting at 8.50am prior to Committee deliberation and decision on this item.

COMMITTEE RECOMMENDATION:

THAT:

1. 90 degree angle parking including six (6) two hour spaces, associated speed humps, signposting and line marking be provided in Box Road, Taren Point, in accordance with Plan 'A' and Plan 'B' attached to the report.
2. Nine (9) two hour (2P) parking spaces be provided at Kumulla Road, Miranda in accordance with Plan 'C' attached to the report.
3. Council's Public Safety and Lifeguards Unit be advised of this decision for enforcement purposes.
4. The Committee request that the RMS consider including a paved footpath in the southern nature strip to facilitate pedestrian movement between the proposed parking and commercial establishments in Taren Point Road.

STR106-18 **Minor Signposting and Linemarking - August 2018**
File Number: 2018/296727

COMMITTEE RECOMMENDATION:

THAT:

1. The Traffic and Traffic Safety Committee endorse the proposed Minor Signposting and Linemarking shown in the attached plans.
2. The Public Safety and Lifeguards Unit be advised of these decisions for enforcement purposes.
3. Regarding Plan E7 – 'no stopping' signs be installed at more regular intervals in this area than are indicated on Plan E7 as shown in the Agenda. Revised Plan E7 is shown below.

STR106-18 – Revised Plan E7

PLAN E7

CAPTAIN COOK DRIVE, KURNELL, SOUTH of TRINITY STREET
 PROPOSED 'NO STOPPING' SIGNS



Issues:

- Illegal parking encroaching on bicycle lane
- Accusations of unfair enforcement due to existing 'No Stopping' terminating halfway between Elouera Road and Trinity Street

STR107-18 Surf Road and Gerrale Street, Cronulla - Time limited motorcycle parking
File Number: 2018/296727

COMMITTEE RECOMMENDATION:

THAT:

1. '2P 6.30am – 8.30pm Monday to Sunday Motorcycles Only' signs be approved at the following two locations of on-street motorcycle parking in Cronulla, in accordance with Plan 'A' and Plan 'B' attached to the report
 - Surf Road, southern side, just east of Cronulla Street
 - Gerrale Street, western side, south of Surf Road.
2. The Public Safety and Lifeguards Unit be informed of this decision for enforcement purposes.
3. Other locations of on-street motorcycle parking in Cronulla be monitored.

STR108-18 2018/2019 Sydney Sprint Series Triathlon - Kurnell
File Number: 2018/310688

COMMITTEE RECOMMENDATION:

THAT:

Pursuant to Section 40 of the Road Transport (Safety and Traffic Management Act) 1999, the applicant be urgently referred in the first instance to the NSW Police to obtain approval for the road cycle portion of this event. The Act provides that written approval must first be obtained from the Commissioner of Police for any road cycle event before any other event organisation or promotion takes place. Further consideration of this item by the Committee will be given once this approval is obtained.

STR109-18 Alteration to Parking Restriction Times and Period - Loftus Avenue, Loftus
File Number: 2018/296727

COMMITTEE RECOMMENDATION:

THAT:

1. Signage to be installed in showing 27 metres of 1/4P 8AM–6PM MON-SUN on Loftus Avenue, Loftus, in accordance with 'Plan A' attached to this report.
2. Council's Public Safety and Lifeguards Unit be advised of this decision for enforcement.

STR110-18 Menai Marketplace Proposed Parking Restrictions
File Number: 2018/296727

COMMITTEE RECOMMENDATION:

THAT:

1. Signage be installed at the entry point to each parking aisle and yellow line marking be used to identify unrestricted parking areas in the Menai Marketplace car park, in accordance with the plan attached as Appendix "B" to this report.
2. Council's Public Safety and Lifeguards Unit be advised of this decision for enforcement.
3. Council's Public Safety and Lifeguards conduct an education program for staff of businesses within Menai Marketplace and for Council's Community Services staff to create and awareness of the 3P and unrestricted parking areas.

STR111-18 Urunga Lane at Urunga Parade, Miranda.
Continuous footpath treatment.
File Number: 2018/296462

COMMITTEE RECOMMENDATION:

THAT:

1. The Traffic and Traffic Safety Committee endorse the provision of a Continuous Footpath Treatment across Urunga Lane, Miranda at the junction of Urunga Lane and Urunga Parade generally in accordance with Plan 'A' attached to the report.
2. The former "No Parking" zone in Urunga Parade be reinstated in conjunction with the removal of the current temporary 'Work Zone' and yellow edge lines be provided at the intersection of Urunga Lane and Urunga Parade.
3. The Public Safety and Lifeguards Unit be advised of this decision for enforcement purposes.

STR112-18 **Wilson Parade, Heathcote - Proposed Line and Signage Plan Associated with Road Reconstruction**
File Number: 2018/296727

COMMITTEE RECOMMENDATION:

THAT:

1. The Traffic and Traffic Safety Committee endorse the proposed parking arrangement, raised threshold, speed cushions and associated signs and line marking in Wilson Parade, Heathcote, in accordance with Appendix A attached to this report.
2. Council's Public Safety and Lifeguards Unit be advised of this decision for enforcement.

STR113-18 **Oak Road, Kirrawee, North of Railway Station.**
Parking zone for On-Demand Transport Service vehicle.
File Number: 2018/96462

COMMITTEE RECOMMENDATION:

THAT:

1. The Sutherland Traffic and Traffic Safety Committee endorse the provision of a 'No Parking 7am to 7pm' zone in Oak Road, Kirrawee, generally in accordance with Plan 'A' attached to the report.
2. The Public Safety and Lifeguards Unit be advised of this decision for enforcement purposes.

STR114-18 **Access to Coles Loading Dock - Hobart Place, Illawong**
File Number: 2018/296727

COMMITTEE RECOMMENDATION:

THAT:

1. The Sutherland Traffic and Traffic Safety Committee endorse the installation of a sign prohibiting the left turn into the Coles Loading Dock off Hobart Place. Sign to read "No left turn into driveway. Vehicles under 6M excepted" .
2. Council's Public Safety and Lifeguards Unit be advised of this decision for enforcement.

General Business

- Michael Cutrupi (representing St George Cabs) requested a report be prepared to consider the relocation of the timed taxi zone (currently 4-5 taxi spaces) on Atkinson Road, near the intersection of Parraweena Road, Taren Point to Production Road, near the corner of Bay Road, Taren Point outside the Apollo Motor Homes business. This area is suitable for 2 taxi spaces and relocation would result in a gain of 2-3 parking spaces for the general public.
- Councillor McLean requested an update on the issue of 'no parking' signs being considered for installation in Ingrid Road, Kareela. Mario Sherrie to provide update to Councillor McLean.
- Mark Carruthers (representing Roads & Maritime Services) provided an update on the request to RMS by residents for the provision of a speed camera on Captain Cook Drive. This matter has been reported to the Centre for Road Safety for feedback and consideration. Senior Constable Rachel King (representing the NSW Police, Sutherland Shire Police Area Command) advised that additional enforcement action is being undertaken at this area and feedback will be provided to the RMS in due course.
- Mr Tony Blain (representing Lee Evans MP) requested an update on the provision of vehicle registration data for users of the parking areas along Rawson Avenue, Loftus. Mario Sherrie (SSC) advised that initial unfiltered data has been received from the NSW Police. Filtering of data to the specific area is required however may not be available due to privacy reasons. Sergeant Scott Robinson (representing NSW Police, Sutherland Local Area Command) to provide assistance with this where possible. At this stage it is anticipated that a report will be provided on this matter at the next meeting of the Sutherland Traffic & Traffic Safety Committee.

The Meeting closed at 10.10am.

Report and Minutes of the Meeting of the Consultative Traffic Forum, held in the Administration Centre, Eton Street, Sutherland on Friday, 3 August 2018, commencing at 10.10am.

PRESENT: Councillor Croucher (Chairperson) together with Mr Tony Blain (representing Mr Lee Evans MP), Mr Mike Schraft (representing Mark Speakman MP), Senior Constable Rachel King (representing the NSW Police, Sutherland Shire Police Area Command), Sergeant Scott Robinson (representing the NSW Police, Sutherland Shire Police Area Command), Mr Michael Cutrupi (representing St George Cabs), Mr Mark Carruthers (representing Roads & Maritime Services)

STAFF IN ATTENDANCE: Manager Traffic & Public Domain Services Executive Engineer (Mario Sherrie), and Governance Officer (Jill Bleszynski).

APOLOGY

Apologies were tendered on behalf of Mr Christian McLaughlin (representing Eleni Petinos MP) and Mr Daryl Ninham (representing Roads & Maritime Services)

*** **DISCLOSURES OF INTEREST**

There were no disclosures of interest declared.

CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

DECISION: (Councillor Croucher / Tony Blain)

That the Minutes of the Meeting of the Consultative Traffic Forum held on Friday 06 July 2018 be confirmed as a correct record.

CTF016-18 Howie Avenue Cronulla - Traffic conditions
File Number: 2018/297922

RECOMMENDATION:

THAT:

1. The report on the results of traffic data collection and the community consultation in relation to a one-way traffic proposal or parking restrictions in Howie Avenue, Cronulla, between Kingsway and Thomas Street, be received and noted.

2. A letter be sent to all residents advising that the proposal for one-way traffic flow or parking restrictions in Howie Avenue, Cronulla will not proceed.

The Meeting closed at 10.15am.

MOT025-18 CENTENARY OF THE ARMISTICE 1918

MOT025-18

Pursuant to Notice, Councillor Simpson submitted the following Motion:

THAT to commemorate the Centenary of the Armistice on 11 November 1918 and the sacrifice of so many men, women and children during World War I, Council in consultation with the Sutherland Shire RSL Sub Branches:

1. Plant a suitable species of pine tree in a park or location to be determined in each Ward and an appropriate plaque be set in place to acknowledge the purpose of the tree.
2. During the month of November 2018 places suitable displays within and on Council buildings.

File Number: 2018/316201

MOT026-18 RETURN OF PLANNING POWERS TO COUNCIL

Pursuant to Notice, Councillor Simpson submitted the following Motion:

THAT Council:

1. Write to the Hon. Gladys Berejiklian MP, Premier of NSW seeking that Sutherland Shire Council have its local planning powers returned in order that elected Councillors are reinstated as the consent authority for all development applications currently determined by the Sutherland Shire Planning Panel.
2. Write to Mr Luke Foley MP, Leader of the Opposition NSW asking that if elected Premier of NSW in March 2019, he guarantees he will reinstate Council's planning powers.
3. Write to the four State Members of Parliament representing parts of the Sutherland Shire asking them to support Council in its endeavour to have planning powers to Councillors reinstated.
4. Brings to the attention of each of the above persons that:
 - a. As a consequence of elected Councillors no longer being the consent authority to determine local development applications, the majority of residents in the Sutherland Shire have lost confidence in the planning system and Council's ability to protect the community from inappropriate development.
 - b. The majority of the community has no confidence in the unelected, non-local Sutherland Shire Planning Panel's ability to make local planning decisions in the community's interest.
 - c. A number of decisions made by the unelected Sutherland Shire Planning Panel, which have allowed development with height and floor space ratio well in excess of Council's planning controls, have led to the community's loss of confidence in a system that seemingly ignores any input from residents, whose amenities and present 'Shire' way of life is forever lost.
 - d. The continuation of the present planning system without elected Councillors having the authority to determine development applications, will forever change and destroy the character of the Sutherland Shire.
 - e. As Sydney is made up of many distinct locations from the sandy beaches to the mountains, each with its own character, special locations and local identity, a 'one size fits all' planning system destroys the unique characteristics and heritage of all of the suburbs in our great city.

-
- f. Based on the NSW Minister for Planning's recent announcement to defer the implementation of the 'Missing Middle' SEPP for twelve months in many local government areas, the NSW Government appears to have doubts about the robustness of the current planning system.

File Number: 2016/257428

MOT027-18 TOURISM CAMPAIGN CRONULLA

MOT027-18

Pursuant to Notice, Councillor Simone submitted the following Motion:

THAT:

1. Representations be made to Tourism Australia and Destination NSW when developing their next campaigns to incorporate key attractions in the Sutherland Shire and/or engage our home-grown internationally recognised ambassadors;
2. Within existing budget allocations, Council explores opportunities to proactively market Sutherland Shire attractions and experiences to international visitors already in Sydney via hotel concierges, airport information services, cruise ship operators and travel agencies promoting the Sutherland Shire as a key destination for day trips and overnight stays.

File Number: 2016/253074

MOT028-18 ICE SKATING RINK IN CRONULLA

MOT028-18

Pursuant to Notice, Councillor Simone submitted the following Motion:

THAT in consultation with the Cronulla Chamber of Commerce, Council calls for expressions of interest for an experienced operator to provide a pop-up ice skating rink in Cronulla Plaza next winter for the benefit of the local community and at no cost to Council.

File Number: 2018/316230

MOT029-18 DROUGHT RELIEF ASSISTANCE

MOT029-18

Pursuant to Notice, Councillor Simpson submitted the following Motion:

THAT:

1. Council acknowledge the severe drought that is generating hardship across rural New South Wales;
2. Council provide support to drought relief efforts by;
 - a. Partnering with Rural Aid in their buy-a-bale drought appeal.
 - b. Publically undertake a Shire wide appeal for hay donations, to be distributed to those in most need.
 - c. Council commence the appeal with a donation of 5 semi-trailer loads of hay.
 - d. The funding of \$47,500 be funded from the community services budget.

File Number: 2015/5175

CONFIDENTIAL REPORTS OF THE SHIRE INFRASTRUCTURE COMMITTEE HELD ON 6 AUGUST 2018

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

**INF009A-18 WORKS IN CONJUNCTION WITH DEVELOPMENT - PINNACLE STREET
MIRANDA - ACCEPTANCE OF QUOTATION****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.