



# Minutes

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## Council Meeting

**Monday, 17 September 2018**

**6.31pm**

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

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**SUTHERLANDSHIRE**

**PRESENT:** The Mayor, Councillor Pesce, together with Councillor Boyd, Councillor Croucher, Councillor Forshaw, Councillor Johns, Councillor McLean, Councillor Nicholls, Councillor Plibersek, Councillor Scaysbrook, Councillor Simone, Councillor Simpson and Councillor Steinwall.

**STAFF IN ATTENDANCE:** The General Manager, Director Corporate Support, Director Shire Planning, Director Shire Infrastructure, Director Shire Services, Executive Public Relations (Amie Lindsell), Manager Governance Risk and Compliance (Anton Usher), Team Leader Governance (Debbie Lewis) and Governance Advisor (Rachael Zhura).

### **ACKNOWLEDGEMENT OF COUNTRY**

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

### **OPENING PRAYER**

The Meeting was opened with prayer by Reverend Thomas Schmid of Revive Church.

**Minute No: 348**

### **APOLOGY**

RESOLVED: (Councillor Pesce/Councillor Scaysbrook)

That an apology tendered on behalf of Councillor Collier, Councillor Provan and Councillor Riad be accepted and leave of absence granted.

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### **DISCLOSURES OF INTEREST**

**File Number: 2015/14239**

Councillor Johns declared a not significant non-pecuniary interest in the following matter:

MM019-18            Mayoral Minute - The Hon Scott Morrison MP, Prime Minister  
File Number: 2017/279120

advising that the Prime Minister is a friend and also as the Prime Minister is leader of the Federal Liberal Party, he [Councillor Johns] is a member of the Liberal Party and Vice President of the Liberal Party Organisation.

Councillor Johns did not advise why the conflict is not significant.

The Mayor, Councillor Pesce, declared a not significant non-pecuniary interest in the following matters:

PLN040-18            Quarterly Report Clause 4.6 Variations Register  
File Number: 2015/25877

advising that his home has been mentioned in the report.

The Mayor, Councillor Pesce, advised that the conflict is not significant as the decision has already been made.

And

MM019-18            Mayoral Minute - The Hon Scott Morrison MP, Prime Minister  
File Number: 2017/279120

advising that the Prime Minister is a friend and also as the Prime Minister is leader of the Federal Liberal Party, he [Councillor Pesce] is a member of the Liberal Party.

The Mayor, Councillor Pesce, did not advise why the conflict is not significant.

The Mayor, Councillor Pesce, declared a pecuniary interest in the following matter:

SER029-18            Early Opening Cafe Trial  
File Number: 2018/297522

advising that he owns a number of cafes within the Shire and he will step out of the room if it's called.

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

PLN042-18            The Low Rise Medium Density Code - Options for Implementation  
File Number: 2016/257428

advising that he works for one of the State Members of Parliament so he'll leave the room.

Councillor Simone declared a not significant non-pecuniary interest in the following matter:

MOT031-18            Installation of signalised intersections at Kingsway and Connells Road Cronulla  
and Kingsway and Woollooware Road Cronulla  
File Number: 2015/79095

advising that her mother lives on the corner of Kingsway and Woollooware Road, Cronulla.

Councillor Simone advised that the conflict is not significant as her mother lives at this intersection and does not drive, and she [Councillor Simone] does not live at this intersection.

**Minute No: 349****CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING**

RESOLVED: (Councillor Simpson/Councillor Nicholls)

That the Minutes of the Ordinary Council held on Monday 20 August 2018, being Minutes Numbered 318 to 347 inclusive, be and are hereby confirmed as a correct record.

**Minute No: 350**

**MM019-18                      Mayoral Minute - The Hon Scott Morrison MP, Prime Minister**  
**File Number: 2017/279120**

\*\*\*The Mayor, Councillor Pesce, and Councillor Johns declared a not significant non-pecuniary interest in this matter.

RESOLVED: (Councillor Pesce/Councillor Scaysbrook)

That Council writes to the Hon Scott Morrison, MP Prime Minister congratulating him on his elevation to the position of Prime Minister.

**Minute No: 351**

**MM020-18                      Mayoral Minute - Walking Dogs on Silver Beach Kurnell**  
**File Number: 2015/64750**

RESOLVED: (Councillor Pesce/Councillor Simone)

THAT:

1. The report be submitted to the Shire Infrastructure Committee to examine the merits and options of relaxing the prohibition of walking dogs on leash along Silver Beach Kurnell.
2. The report also review existing controls on horses at Silver Beach.
3. The report excludes consideration of expanding the existing off leash area and continues the exclusion in the beachfront adjacent to the netted bathing area.
4. The report also outlines a community engagement plan which would include the Kurnell Progress and Precinct Residents Association for the options to be considered.

**At this time in the Meeting, all open items marked in these minutes with an asterisk were moved in bulk, as shown: "RESOLVED: (Councillor Simpson/Councillor Forshaw\*)"**

**Minute No: 352**

**GOV036-18                      Writing-Off Of Rates And Charges Under Delegated Authority For The  
Period 1 January 2018 To 30 June 2018  
File Number: 2017/286466**

RESOLVED: (Councillor Simpson/Councillor Forshaw\*)

That the report on "Writing-Off of Rates and Charges Under Delegated Authority for the Period 1 January 2018 - 30 June 2018", be received and noted.

**Minute No: 353**

**GOV037-18                      Delivery Program 2017/2021 Progress Report  
File Number: 2017/278520**

RESOLVED: (Councillor Simpson/Councillor Forshaw\*)

That the end of year report on the progress against actions adopted in the 2017/2021 Delivery Program incorporating 2017/18 Operational Plan be received and noted.

**Minute No: 354**

**GOV038-18                      Cash Payments and Investments Report - July 2018  
File Number: 2018/315796**

RESOLVED: (Councillor Simpson/Councillor Forshaw\*)

That the information concerning Bank Balances and Investments held as at 31 July 2018, be received and noted.

**Minute No: 355**

**GOV039-18                      Related Party Disclosure Policy  
File Number: 2015/26251**

RESOLVED: (Councillor Simpson/Councillor Forshaw\*)

THAT:

1. The Related Party Disclosure Policy (Appendix "A") be adopted by Council and the Related Policy Disclosure Guidelines be noted.
2. The procedure in relation to the statutory returns required by Councillors be reviewed.

**Minute No: 356**

**SER029-18                      Early Opening Cafe Trial**  
**File Number: 2018/297522**

\*\*\*The Mayor, Councillor Pesce, declared a pecuniary interest in this matter and did not vote. This matter was moved in bulk therefore there was no discussion on the item.

RESOLVED: (Councillor Simpson/Councillor Forshaw\*)

THAT:

1. Council endorse the initiative to allow 'restaurants or cafes' to extend their hours of operation to open at 5:30am, for indoor and takeaway trade only, in all B2 Local Centre, B3 Commercial Core and B4 Mixed Use zones and the DCP be amended accordingly.
2. Council review the DCP Chapter 37 for Kirrawee Town Centre in relation to late night trading, as well as meet with NSW Police, given the substantial change in residential status.

**Minute No: 357**

**SER030-18                      Economic Development and Graffiti Management via Public Art and**  
**associated Cultural Events**  
**File Number: 2016/261264**

RESOLVED: (Councillor Simpson/Councillor Forshaw\*)

THAT:

1. Council monitor graffiti hot spots to assess their appropriateness for public place art projects and work in partnership with local community to identify and secure grant funding for such projects.
2. The Cultural Plan, when developed and adopted, addresses the potential for innovative art projects in the public domain that stimulate local economies and build communities.

**Minute No: 358****SER031-18****T 773/18 Squad Training and Learn to Swim Coaching Services at Engadine Leisure Centre****File Number: 2018/310692**

RESOLVED: (Councillor Simpson/Councillor Forshaw\*)

That in accordance with Local Government (General) Regulation 2005 – Reg 178 (1)(b) and Reg 178 (3)(b), Council decline all tender submissions received for T773/18 Squad training and Learn to Swim coaching services and invite fresh tenders that reflect year round swimming at Engadine Leisure Centre.

**Minute No: 359****INF042-18****Recreation Facility Parc Menai****File Number: 2015/10961**

MOTION: (Councillor Nicholls/Councillor Johns)

That this matter be deferred to the next Council Meeting via the Shire Infrastructure Committee.

AMENDMENT: (Councillor Simpson/Councillor Scaysbrook)

That the proposal be considered for inclusion in the preparation of the 2019/20 Operational Plan and Long Term Financial Plan after further work on service need is completed.

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

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

**In Favour** of the Amendment were Councillors Boyd, Forshaw, McLean, Plibersek, Scaysbrook, Simpson and Steinwall.

**Against** the Amendment were the Mayor, Councillor Pesce, together with Councillors Croucher, Johns, Nicholls and Simone.

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

**Minute No: 360**

**INF043-18                    Major Infrastructure Projects Review**  
**File Number: 2015/44222**

RESOLVED: (Councillor Simpson/Councillor Forshaw\*)

THAT:

1. The report "Major Infrastructure Project Review" be received and noted
2. The Audit Report on the Ocean Grove Project be received as soon as practicable.

**Minute No: 361**

**INF044-18                    Request for additional plaque Veno Street Memorial, Heathcote**  
**File Number: 2015/31011**

RESOLVED: (Councillor Steinwall/Councillor McLean)

THAT:

1. The community proposal to add a second plaque to the Veno Street Memorial in Heathcote be endorsed.
2. A joint ceremony be held with Council and David Elliott MP, Minister for Veterans Affairs, to unveil the new plaque.
3. Council thank the Shire Military History Club for their hard work and for highlighting this important piece of Shire history.

**Minute No: 362**

**PLN040-18                    Quarterly Report Clause 4.6 Variations Register**  
**File Number: 2015/25877**

\*\*\*The Mayor, Councillor Pesce, declared a not significant non-pecuniary interest in this matter.

MOTION: (Councillor Simpson/Councillor Plibersek)

THAT Council:

1. Receive the report.



2. In recognition of residents' concerns on overdevelopment within the Shire and the elected Councillors being unable to determine development applications and hence the ability of protecting the Sutherland Shire community from inappropriate development, brought about by approval of development being approved with height, floor space ratio in excess of Council's planning controls and land lots and landscape ratio not meeting the required size or amount.
3. The elected Council expresses its deep concerns about any development which do not fully comply with the Sutherland Shire Local Environmental Plan 2015, that Council put before the community for public comment before the plan was endorsed.
4. This Council is of the opinion that non-compliance with Council's LEP should only occur in the most extreme circumstances and not as a general occurrence.
5. This Council decision be communicated to all Council staff.

AMENDMENT: (Councillor Johns/Councillor Croucher)

THAT:

1. The quarterly report on Clause 4.6 Variations be received.
2. This matter be referred back to the Shire Planning Committee for a detailed analysis to be undertaken.

The Amendment on being put to the Meeting was declared lost.

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

**In Favour** of the Amendment were Councillors Croucher, Johns, Nicholls and Simone.

**Against** the Amendment were the Mayor, Councillor Pesce, together with Councillors Boyd, Forshaw, McLean, Plibersek, Scaysbrook, Simpson and Steinwall.

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

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

**In Favour** of the Resolution were the Mayor, Councillor Pesce, together with Councillors Boyd, Forshaw, Johns, McLean, Nicholls, Plibersek, Scaysbrook, Simone, Simpson and Steinwall.

**Against** the Resolution was Councillor Croucher.

**Minute No: 363**

**PLN041-18                      Further Amendments to SSLEP 2015**  
**File Number: 2017/272970**

RESOLVED: (Councillor Scaysbrook/Councillor Nicholls)

THAT:

1. The Planning Proposal reported through PLN028-18 and PLN001-19 be amended to include the changes identified in this report.
2. The combined Planning Proposal be referred to the Sutherland Shire Local Planning Panel.
3. Provided the Sutherland Shire Local Planning Panel does not identify any significant concerns that would require further consideration by Council, the Planning Proposal be submitted to NSW Planning and Environment for a Gateway Determination.
4. Subject to a positive Gateway Determination, the planning proposal be exhibited in accordance with Council's policies and the conditions of the Gateway Determination.

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

**In Favour** of the Resolution were the Mayor, Councillor Pesce, together with Councillors Boyd, Croucher, Forshaw, Johns, McLean, Nicholls, Plibersek, Scaysbrook, Simone, Simpson and Steinwall.

**The decision was unanimous.**

**Minute No: 364**

**PLN042-18                      The Low Rise Medium Density Code - Options for Implementation**  
**File Number: 2016/257428**

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

RESOLVED: (Councillor Steinwall/Councillor Plibersek)

THAT:

1. Council make a request to the Minister for Planning for permanent suspension of the Code to Sutherland Shire because Council's planning framework is delivering record numbers of dwellings across all forms of housing.

2. Council seek an amendment to the Code so that complying development must respect the principle development standards contained in Sutherland Shire Local Environmental Plan 2015.
3. Council write to our State members seeking their support for a permanent suspension of the Code in the Sutherland Shire.
4. Granny flats also meet the requirements of the Sutherland Shire Local Environmental Plan 2015.

Councillor Nicholls returned to the Meeting at this stage (7:47pm).

**Minute No: 365**

**PLN043-18                    Infrastructure in the Sutherland Shire**  
**File Number: 2018/308432**

RESOLVED: (Councillor Simpson/Councillor Forshaw\*)

THAT:

1. The report "Infrastructure in the Sutherland Shire" be received and noted.
2. A local Council facilities audit be undertaken.

**Minute No: 366**

**PLN044-18                    Results of Exhibition of Draft Amended Strategy for Finalisation of old**  
**S94 and S94A Plans**  
**File Number: 2018/307839**

RESOLVED: (Councillor Plibersek/Councillor Scaysbrook)

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

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

**In Favour** of the Resolution were the Mayor, Councillor Pesce, together with Councillors Boyd, Croucher, Forshaw, McLean, Nicholls, Plibersek, Scaysbrook, Simone, Simpson and Steinwall.

**Against** the Resolution was Councillor Johns.

**Minute No: 367**

**COR032-18**            **Report and Minutes of the Meetings of the Sutherland Traffic and Traffic Safety Committee and Consultative Traffic Forum held on Friday, 7 September 2018**  
**File Number: 2016/253677**

RESOLVED: (Councillor Simpson/Councillor Forshaw\*)

THAT:

1. The committee recommendations contained in the Minutes of the Sutherland Traffic and Traffic Safety Committee Meeting held on Friday, 7 September 2018 be adopted.
2. The recommendations contained in the Minutes of the Consultative Traffic Forum Meeting held on Friday, 7 September 2018 be adopted.

**Minute No: 368**

**MOT030-18**            **65 Hotham Road Kirrawee**  
**File Number: 2018/295574**

RESOLVED: (Councillor Plibersek/Councillor Boyd)

THAT Council:

1. Commences discussions with the owner of 65 Hotham Road Kirrawee with a view to preserving the dwelling and incorporating it for an appropriate use within the hospital complex;
2. Commences proceedings to list the dwelling under an interim heritage order;
3. Undertakes a review of the heritage value of the property for possible local heritage listing when next preparing an amendment to SSLEP2015.

**Minute No: 369**

**MOT031-18                    Installation of signalised intersections at Kingsway and Connells Road  
Cronulla and Kingsway and Woolooware Road Cronulla  
File Number: 2015/79095**

\*\*\*Councillor Simone declared a not significant non-pecuniary interest in this matter.

RESOLVED: (Councillor Simone/Councillor Croucher)

THAT:

1. In light of the recent serious accident on the corner of The Kingsway and Connells Road Cronulla and the number of serious accidents and near misses on this and nearby intersections, Council writes to the RMS seeking an urgent response to calls for the installation of the following intersection treatments:
  - a. The provision of traffic signals at Kingsway and Connells Road Cronulla and/or prohibition of right turn movements from Connells Road to Kingsway; and
  - b. The provision of traffic signals at Kingsway and Woolooware Road Woolooware.
2. Council write to the State members for Cronulla and Miranda seeking their support for the installation of lights.

**Minute No: 370**

**MOT032-18                    Compliance with Local Environmental Plan  
File Number: 2015/216065**

RESOLVED: (Councillor Simpson/Councillor Pesce)

That this matter be withdrawn in light of Council's resolution of PLN040-18.

**Minute No: 371**

**MOT033-18                    Community Participation at Council Meetings  
File Number: 2015/26223**

RESOLVED: (Councillor Simpson/Councillor Steinwall)

THAT:

1. In recognition of the community's calls for greater participation in the decisions of Council, the General Meeting procedures be amended to facilitate a 'public forum' towards the beginning of Council meetings.

2. Prior to the implementation of this new practice, Council receives a report which sets out recommended procedural amendments to the Code of Meeting Practice and the establishment of guidelines which provide the following:
  - a. Opportunities for question 'on notice' to be put to Councillors and senior staff;
  - b. Administrative arrangements for the registration of speakers and questions and the recording of such;
  - c. Appropriate time limits on speaking time, the manner and number of questions to be asked/debated;
  - d. Restrictions on questions or debate concerning matters of a personal or personnel nature, matters before a Court, and/or matters which are confidential or commercial in confidence;
  - e. The manner and timeframe by which questions may be answered; and
  - f. A fact sheet explaining to participants that:
    - i. All meetings are recorded and published in a public forum;
    - ii. Participants are required to be respectful of meeting procedures and members of Council;
    - iii. Comments made in a public forum waive legal privilege;
    - iv. Participants need to be mindful of privacy, defamation and copyright laws in making comments/asking questions.
  
3. The report also include the investigation of webcasting Council Meetings.

### **BUSINESS WITHOUT NOTICE**

**Minute No: 372      Charity for 2019 Australia Day Events**  
**File Number: 2018/302763**

Councillor Simpson requested Business Without Notice concerning the Charity for the 2019 Australia Day Events be considered as a matter of urgency.

RESOLVED: (Councillor Simpson/Councillor Pesce)

That permission be granted to bring forward Business Without Notice regarding the Charity for the 2019 Australia Day Events.

The Mayor, Councillor Pesce, ruled in accordance with Clause 20(3)(b) of Council's Code of Meeting Practice that the matter was of great urgency.

**Minute No: 373**

**BWN014-18**

**Charity for 2019 Australia Day Events**

**File Number: 2018/302763**

RESOLVED: (Councillor Simpson/Councillor Pesce)

That the charity for the 2019 Australia Day events be Rural Aid and all funds collected on Australia Day and in connection with Australia Day events in 2019 be donated to Rural Aid.

The Meeting closed at 8:13pm.