



# Minutes

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## Council Meeting

**Monday, 15 October 2018**

**6.30pm**

**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 Collier, Councillor Croucher, Councillor Forshaw, Councillor Johns, Councillor McLean, Councillor Nicholls, Councillor Plibersek, Councillor Riad, 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 Property Services (Lani Richardson), Team Leader Governance (Debbie Lewis), Governance Advisor (Rachael Zhura) and Governance Officer (Bernadette Feltham).

### **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 Oto Faiva from Sutherland & Loftus Uniting Church.

**Minute No: 384**

### **APOLOGY**

RESOLVED: (Councillor Riad/Councillor Scaysbrook)

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

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### **DISCLOSURES OF INTEREST**

**File Number: 2015/14239**

Councillor Johns declared a pecuniary interest in the following matter:

INF010A-18            Suez Waste Disposal Contract July 1 2018 to June 30 2021

File Number: 2015/34630

advising that the company in which he is a Director has interests in waste (green) product supply, distribution and technology.

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

SER033-18            Proposed Land Exchange at 5 Preston Avenue Engadine.

File Number: 217/264839

advising that the planning consultancy is the one at which her son works. She does not believe he is involved in this but nevertheless the planning consultancy is mentioned and she will leave the room.

**Minute No: 385****CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING**

RESOLVED: (Councillor Scaysbrook/Councillor McLean)

That the Minutes of the Ordinary Council held on Monday 17 September 2018, being Minutes Numbered 348 to 373 inclusive, be and are hereby confirmed as a correct record, subject to the following amendment as shown below in italics:

**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 *PLN037-18* 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.

**Minute No: 386****CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING**

RESOLVED: (Councillor Johns/Councillor Simone)

That the Minutes of the Special Council held on Monday 24 September 2018, being Minutes Numbered 374 to 380 inclusive, be and are hereby confirmed as a correct record.

**Minute No: 387****CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING**

RESOLVED: (Councillor Nicholls/Councillor Boyd)

That the Minutes of the Special Council held on Tuesday 02 October 2018, being Minutes Numbered 381 to 383 inclusive, be and are hereby confirmed as a correct record.

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

**Minute No: 388**

**GOV040-18                    Lodgement of Disclosure of Interest Returns for Councillors and Designated Persons Pursuant to Section 449 of The Local Government Act 1993 for the Period 01 July 2017 to 30 June 2018**  
**File Number: 2018/312942**

RESOLVED: (Councillor Simone/Councillor Plibersek\*)

That the report “Lodgement of Disclosure of Interest Returns for Councillors and Designated Persons pursuant to section 449 of the Local Government Act 1993 for the period 01 July 2017 to 30 June 2018” be received and noted.

**Minute No: 389**

**GOV041-18                    Cash Payments and Investments Report - August 2018**  
**File Number: 2018/315796**

RESOLVED: (Councillor Simone/Councillor Plibersek\*)

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

**Minute No: 390**

**SER032-18                    Proposed Acquisition 96 Como Road Oyster Bay for Open Space Purposes**  
**File Number: 2018/310622**

RESOLVED: (Councillor Simone/Councillor Plibersek\*)

THAT:

1. Council approves the acquisition of Lot 1 Deposited Plan 515144 known as 96 Como Road, Oyster Bay for the purpose of increasing open space as set out in SSLEP 2015 at market value on terms and conditions to the satisfaction of the General Manager.
2. Council delegates the General Manager to execute any necessary documentation, in accordance with the Power of Attorney dated 6 July 2016 BK 4710 No. 28, for the above.

**Minute No: 391****SER033-18****Proposed Land Exchange at 5 Preston Avenue Engadine****File Number: 217/264839**

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

MOTION: (Councillor Simpson/Councillor Johns)

THAT:

1. Public consultation takes place in determining proposed land exchange.
2. A further report be supplied to Council with recommendation that include the public consultation outcomes.

AMENDMENT: (Councillor Riad/Councillor McLean)

THAT:

1. Council authorise the road closure of approximately 143.5m<sup>2</sup> section of Geebung Lane adjoining Lot 6 DP 232490 located at 5 Preston Avenue, Engadine subject to an appropriate agreement that entails the embellishment of the park to the satisfaction of Council officers.
2. Subject to the successful closure of the road, Council authorises the land exchange of approximately 143.5m<sup>2</sup> section of Geebung Lane adjoining Lot 6 DP 232490 to Engadine Tavern Project Pty Ltd in return for approximately 165.1m<sup>2</sup> of the existing tavern car park adjoining Engadine Town Park and delegates the General Manger to negotiate the terms of the exchange in Council's favour.
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 resolutions 1 and 2.
4. Once the road is closed and new lots are created, a Planning Proposal be prepared to:
  - a) zone that part of Lot 6 DP 232490, 5 Preston Avenue, Engadine proposed to be transferred to Council to expand Engadine Town Park RE1 Public Recreation; and
  - b) apply development standards to the land in Geebung Lane to be transferred to Engadine Tavern Project Pty Ltd consistent with the development standards applying to the adjoining land, being a height limit of 20 metres and a floor space ratio of 2:1.
5. The combined Planning Proposal be referred to the Sutherland Shire Local Planning Panel.

6. 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.
7. Subject to a positive Gateway Determination, the planning proposal be exhibited in accordance with Council's policies and the conditions of the Gateway Determination.
8. Prior to executing the land swap the General Manager in consultation with the Mayor is satisfied that the value of the embellishment of the park be to the Councils benefit.

Councillor Forshaw and Councillor Simpson left the Meeting at this stage (7:08pm) to avoid a potential breach of a conflict of duty as set out in the Planning Panels Code of Conduct August 2018 given forecast questions and debate about a future development application on the site which may come before Sydney South Planning Panel, of which they are both members.

Debate continued on the matter.

Councillor Forshaw and Councillor Simpson returned to the Meeting (7:12pm).

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

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

**In Favour** of the Amendment were the Mayor, Councillor Pesce, together with Councillors Boyd, Collier, Croucher, Forshaw, McLean, Nicholls, Plibersek, Riad and Simone.

**Against** the Amendment were Councillors Johns, Scaysbrook and Simpson.

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

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

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

**Against** the Resolution were Councillors Scaysbrook and Simpson.

Councillor Steinwall returned to the Meeting (7:18pm).

**Minute No: 392**

**SER034-18**

**Proposed Drainage Easement - 74B Chapman Street, Gymea**

**File Number: 2018/298074**

RESOLVED: (Councillor Simpson/Councillor Riad)

THAT:

1. An Easement for Services (Drainage) be granted over Council land described as 74B Chapman Street, Gymea (Lot 53 Sec 2 DP 10641) in favour of 72 Chapman Street, Gymea (Lot 16 Sec 2 DP 10641).
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.
3. The property owner will be responsible for all costs associated with the granting of the easement.

**Minute No: 393**

**SER035-18**

**Economic Strategy**

**File Number: 2017/278520**

RESOLVED: (Councillor Simone/Councillor Plibersek\*)

THAT:

1. Council endorse public exhibition of the draft Sutherland Shire Economic Strategy for a period of 28 days.
2. Following exhibition the feedback be reviewed and the final Economic Strategy be submitted to Council for endorsement.

**Minute No: 394****SER036-18****Proposed Surrender of Lease - Menai Children's Services Centre****File Number: 2015/13388**

RESOLVED: (Councillor Simone/Councillor Plibersek\*)

THAT:

1. Council surrenders its lease over Menai Children's Services Centre to the Department of Education on the basis that existing community groups continue to have access to a suitable facility at the site.
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.

**INF045-18****Sutherland Entertainment Centre Upgrade Status Report****File Number: 2018/309689**

MOTION: (Councillor Nicholls/Councillor Simpson)

THAT:

1. The Sutherland Entertainment Centre Upgrade Status Report be received and noted.
2. A working party be established in issues related to the Sutherland Entertainment Centre upgrade.

AMENDMENT: (Councillor Riad/Councillor Forshaw)

THAT:

1. The Sutherland Entertainment Centre Upgrade Status Report be received and noted.
2. An urgent Councillor briefing be provided on issues highlighted in the report and regular Councillor briefings be provided on a quarterly basis.

**Minute No: 395****Procedural Motion****To Defer Consideration of INF045-18**

RESOLVED: (Councillor Pesce/Councillor Nicholls)

That consideration of INF045-18 be deferred to the end of Meeting to allow confidential questions of a legal nature to be asked in relation to this item.



**Minute No: 396**

**INF046-18                    Update Energy Generation Project**  
**File Number: 2017/285225**

RESOLVED: (Councillor Forshaw/Councillor Simone)

That the report "Update Energy Generation Project" be received and noted.

**Minute No: 397**

**INF047-18                    "Everyone Can Play: Let's create inclusive playspaces": Council**  
**Submission on Playspace Design Guideline**  
**File Number: 2015/64827**

RESOLVED: (Councillor Simpson/Councillor Steinwall)

THAT:

1. The draft submission in response to the NSW Government's "Everyone Can Play: Let's create inclusive playspaces" draft Guideline be endorsed.
2. Councillors receive updates regarding the receipt and outcomes of submissions made by Council.
3. Elected Councillors are advised of all material that is received by Council that requires/seeking community feedback.
4. Councillors are given this information in a timely fashion so that genuine public consultation may take place.
5. Council department heads are informed of this requirement.
6. Council write to the relevant bodies about the limited time frames provided for the preparation and consideration of submissions.
7. Council request that the NSW State Government make a significant financial contribution so that Council can adopt, implement and maintain play spaces into the future.

**Minute No: 398**

**PLN045-18                    Landscape Inspection Program and Fees**  
**File Number: 2015/90422**

RESOLVED: (Councillor Riad/Councillor Simpson)

THAT:

1. The report "Landscape Inspection Program and Fees" be received and noted.
2. The Landscape Inspection fee structure as shown in the table below be endorsed for public exhibition:

<b>Development Type</b>	<b>1<sup>st</sup> Fee</b>	<b>Subsequent Fee</b>
Dual Occupancy	\$230	\$100
Town Houses (4 or less)	\$400	\$400
Town Houses (more than 4)	\$600	\$600
Units < 25	\$800	\$800
Units < 50	\$1200	\$1200
Units >= 50	\$3000	\$3000
Commercial/Industrial Sites	\$400	\$400

3. A follow up report be provided within six months outlining the costs to Council for this service.

**Minute No: 399**

**PLN046-18                    Implementing the South District Plan**  
**File Number: 2018/313212**

RESOLVED: (Councillor Simone/Councillor Plibersek\*)

That Council forward the attached LEP Review to the Greater Sydney Commission.

**Minute No: 400**

**COR035-18                    2017/18 Annual Financial Statements**  
**File Number: 2018/320018**

Councillors Croucher and Plibersek, as members of the Audit, Risk & Improvement Committee, commended staff for their preparation of the Financial Statements and conveyed the Audit, Risk & Improvement Committee's recommendation that the Financial Statements be adopted.

RESOLVED: (Councillor Croucher/Councillor Plibersek)

THAT:

1. With regard to the General and Special Purpose Financial Reports of the Council for the year ended 30 June 2018, it is the opinion of Council that:
  - a. The Annual Financial Reports have been drawn up in accordance with:
    - i. the Local Government Act 1993 and the Regulations; and
    - ii. the Local Government Code of Accounting Practice and Asset Accounting Manual; and
    - iii. the Australian Accounting Standards.
  - b. The reports present fairly the Council's financial position and operating result for the year.
  - c. The reports are in accord with the Council's accounting and other records.
  - d. The Council is unaware of anything that would make the financial reports false or misleading in any way.
2. Pursuant to Section 418 of the Local Government Act 1993, public notice be given that the Council will present its audited financial reports and auditor's report at the Ordinary Meeting of Council to be held on 19 November 2018.

**Minute No: 401**

**COR036-18                      Revocation of The Current General Manager Power of Attorney and  
granting of new Power of Attorney to The Acting General Manager  
File Number: 2015/227890**

RESOLVED: (Councillor Simone/Councillor Plibersek\*)

THAT:

1. The Acting General Manager be granted Power of Attorney to execute documents, dealings and instruments on the same terms as the Power of Attorney dated 24 June 2016, granted to Scott Fredrick Phillips. The Power of Attorney granted to the Acting General Manager shall commence on the day following the current General Manager's last day of employment at Sutherland Shire Council.
2. Pursuant to clause 400 of the Local Government Regulation 2005, the following documents be executed under Common Seal of the Council of the Sutherland Shire:  
Type of Document: Power of Attorney  
Other Party: Ms Manjeet Kaur Grewal  
Type of Document: Revocation of Power of Attorney  
Other Party: Scott Frederick Phillips
3. The Power of Attorney and Revocation of existing Power of Attorney, if necessary, once executed, be registered with Land and Property Information, NSW.

**Minute No: 402**

**COR037-18                    Recruitment of General Manager**  
**File Number: 2018/320222**

RESOLVED: (Councillor Johns/Councillor Nicholls)

THAT:

1. A committee comprising the Mayor, Councillor Pesce, and Councillor Simpson, Councillor Johns, Councillor McLean and Councillor Collier be appointed to oversee the process for the recruitment of General Manager.
2. The Manager People & Culture provide support to the committee.

**Minute No: 403**

**COR038-18                    Appointment of Councillors to Finance Working Party**  
**File Number: 2015/937**

RESOLVED: (Councillor Riad/Councillor Scaysbrook)

That the Mayor, Councillor Pesce, and Councillor Boyd, Councillor Croucher, Councillor Forshaw, Councillor Johns, Councillor Plibersek, and Councillor Scaysbrook be appointed as members of the Finance Working Party.

**Minute No: 404**

**COR039-18                    Kamay 2020 Project Board Membership**  
**File Number: 2015/30682**

RESOLVED: (Councillor Johns/Councillor Croucher)

THAT:

1. Council accepts the invitation from the Minister for the Environment, Local Government & Heritage and endorse the Mayor to represent Council on the Kamay 2020 Project Board, with Councillor Croucher to be the alternate representative.
2. The Office of the Minister be thanked for their invitation and advised of Council's acceptance of the Mayor for Board membership.

**Minute No: 405****COR040-18****Report and Minutes of the Meetings of the Sutherland Traffic and Traffic Safety Committee and Consultative Traffic Forum held on Friday, 5 October 2018****File Number: 2016/253677**

RESOLVED: (Councillor Simone/Councillor Plibersek\*)

THAT:

1. The committee recommendations contained in the Minutes of the Sutherland Traffic and Traffic Safety Committee Meeting held on Friday, 5 October 2018 be adopted.
2. The recommendations contained in the Minutes of the Consultative Traffic Forum Meeting held on Friday, 5 October 2018 be adopted.

**BUSINESS WITHOUT NOTICE****Minute No: 406****Proposed Telecommunication Facility Locations****File Number: 2015/84052**

Councillor Johns requested Business Without Notice concerning Proposed Telecommunication Facility Locations be considered as a matter of urgency.

RESOLVED: (Councillor Johns/Councillor Boyd)

That permission be granted to bring forward Business Without Notice regarding Proposed Telecommunication Facility Locations.

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

**Minute No: 407**

**BWN015-18            Proposed Telecommunication Facility Locations**  
**File Number: 2015/84052**

RESOLVED: (Councillor Johns/Councillor Boyd)

THAT:

1. In recognition of residents' legitimate concerns associated with the installation of telecommunications equipment near their homes, Council receive a report detailing what options it can pursue to best represent the interests of residents and setting a framework for how telecommunications proposals are dealt with by Council.
2. Any former policies be reviewed.

**Minute No: 408            Truck Movements into Illawong Shopping Village**  
**File Number: 2016/253994**

Councillor Riad requested Business Without Notice concerning Truck Movements into Illawong Shopping Village be considered as a matter of urgency.

RESOLVED: (Councillor Riad/Councillor Simpson)

That permission be granted to bring forward Business Without Notice regarding Truck Movements into Illawong Shopping Village.

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

**Minute No: 409**

**BWN016-18            Truck Movements into Illawong Shopping Village**  
**File Number: 2016/253994**

RESOLVED: (Councillor Riad/Councillor Simpson)

THAT:

1. Issues involving truck movements into Illawong shopping village be referred to the next available committee meeting of the Sutherland Traffic and Traffic Safety Committee as a matter of urgency.
2. The Sutherland Traffic and Traffic Safety Committee be invited to attend the site.

**At this time in the Meeting, all closed items marked in these minutes with two asterisks were moved in bulk, as shown: “RESOLVED: (Councillor Simone/Councillor Plibersek\*\*)”**

**Minute No: 410**

**CONSIDERATION OF BUSINESS IN CLOSED SESSION (8:23pm)**

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

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

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

There were none.

RESOLVED: (Councillor Pesce/Councillor Nicholls)

That in accordance with Section 10A(1) of the Local Government Act 1993, the following matters be considered in Closed Session of Council for the reasons provided, and INF045-18 be discussed in Closed Session of Council for the reason provided:

**INF010A-18                    Suez Waste Disposal Contract July 1 2018 to June 30 2021**  
**File Number: 2015/34630**

**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.

**INF045-18                    Sutherland Entertainment Centre Upgrade Status Report**  
**File Number: 2018/309689**

**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.

**Minute No: 411**

**INF010A-18                    Suez Waste Disposal Contract July 1 2018 to June 30 2021**  
**File Number: 2015/34630**

\*\*\*Councillor Johns 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 Simone/Councillor Plibersek\*\*)

THAT:

1. Council not invite tenders (under section 55(3)(i) of the Local Government Act 1993) for the disposal of Putrescible Waste, Dry Waste and Green Waste, as a satisfactory result would not be achieved due to the following extenuating circumstances:
  - (i) the close proximity of the Lucas Heights Resource Recovery Park,
  - (ii) the preferential treatment in relation to pricing under the Voluntary Planning Agreement dated 17 March 2017, and
  - (iii) the lack of alternative waste disposal facilities in the southern suburbs region of Sydney.
2. Council approve a three year extension from 1 July 2018 of the existing contracts with SUEZ subject to the terms and conditions being 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.

At this stage the Meeting moved back into Open Session (8:52pm).



**Minute No: 412**

**INF045-18**

**Sutherland Entertainment Centre Upgrade Status Report**

**File Number: 2018/309689**

RESOLVED: (Councillor Nicholls/Councillor Simpson)

THAT:

1. The Sutherland Entertainment Centre Upgrade Status Report be received and noted.
2. Councillors are briefed bi-monthly or more frequently if necessary, on the status of the Sutherland Entertainment Centre.
3. In the event that commercial in confidence information and/or advice that is subject to legal privilege forms part of the quarterly report to Council, it is dealt with as confidential.

The Meeting closed at 9:08pm.