



# Minutes

---

## Council Meeting

**Monday, 19 November 2018**

**6:30pm**

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

---

**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 and Councillor Steinwall.

**STAFF IN ATTENDANCE:** The Acting General Manager (Manjeet Grewal), Director Shire Infrastructure, Director Shire Planning, Acting Director Corporate Support (David MacNiven), Acting Director Shire Services (Lani Richardson), Manager Finance (Greg Hayes), Manager Governance, Risk and Compliance (Anton Usher), Executive Public Relations (Amie Lindsell), Team Leader Governance (Debbie Lewis), Governance Advisor (Rachael Zhura) and Governance Officer (Jenni Dovey).

### **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 James Warren of Engadine Anglican Church.

### **Minute No: 413**

#### **Suspension of Standing Orders**

#### **Minute of Silence**

RESOLVED: (Councillor Pesce)

That Standing Orders be suspended to observe a minute of silence in honour of the Deputy Mayor's son, Adam Simpson, who recently passed away.

At this stage of the Meeting, all stood for a minute of silence.

### **ARMISTICE COMMEMORATION**

Mr Peter Anderson presented a commemoration for the centenary of the Armistice.

### **Resumption of Standing Orders**

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

**Minute No: 414****APOLOGY**

RESOLVED: (Councillor Riad/Councillor Steinwall)

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

\*\*\*

**DISCLOSURES OF INTEREST**

**File Number: 2015/14239**

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

MOT037-18                      Submissions on Development Applications Referred to Planning Panels  
File Number: 2016/261299, 2018/295236

advising that he is a member of the Sydney South Planning Panel.

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

PLN050-18                      Sydney Trains Draft Tree Management Plan  
File Number: 2015/87349

advising that he works for one of the Members of Parliament that Council is seeking to lobby.

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

COR041-18                      Report and Minutes of the Meetings of the Sutherland Traffic and Traffic Safety  
Committee and Consultative Traffic Forum held on Friday, 2 November 2018  
File Number: 2016/253677

advising that his father has a business in the building next to the Hay Avenue car park.

Councillor Riad declared a pecuniary interest in the following matter:

INF011A-18                      Container Deposit Scheme - VISY Deed of Agreement  
File Number: 2015/34590

advising that his sister is employed as a competitor to Visy so if that item is called he will leave the room.

**Minute No: 415****CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING**

RESOLVED: (Councillor Riad/Councillor Simone)

That the Minutes of the Ordinary Council held on Monday 15 October 2018, being Minutes Numbered 384 to 412 inclusive, be and are hereby confirmed as a correct record.

**Minute No: 416**

**MM022-18**                      **Mayoral Minute - Armistice Day Centenary**  
**File Number: 2018/318638**

RESOLVED: (Councillor Pesce/Councillor Steinwall)

THAT:

Appreciation be extended to all the staff across Council who worked collaboratively to ensure the success of the tree planting events to commemorate the Centenary of Armistice.

**Minute No: 417****Suspension of Standing Orders**

RESOLVED: (Councillor Pesce)

That Standing Orders be suspended to consider GOV044-18 as the next item of business.

**Minute No: 418**

**GOV044-18**                      **2017/18 Annual Financial statements**  
**File Number: 2018/320018**

Mr Marc Upcroft of PricewaterhouseCoopers provided a presentation on this matter.

RESOLVED: (Councillor Johns/Councillor Plibersek)

That the presentation of the 2017/18 General Purpose and Special Purpose Financial Statements and Auditor's Report be received and noted.

**Resumption of Standing Orders**

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

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

**Minute No: 419**

**GOV042-18                      Cash Payments and Investments Report - September 2018**  
**File Number: 2018/315796**

RESOLVED: (Councillor Pliberseki/Councillor Forshaw\*)

That the information concerning Bank Balances and Investments held as at 30 September 2018, be received and noted.

**Minute No: 420**

**GOV043-18                      Quarterly Budget Review Statement for Period Ending September 2018**  
**File Number: 2018/307801**

RESOLVED: (Councillor Pliberseki/Councillor Forshaw\*)

THAT:

1. The 1st Quarterly Budget Review Statement and recommendations contained within be adopted and income and expenditure adjustments be voted.
2. The net operating result in the Financial Statement to be followed by an amount summarising deferred projects; in the appendix.

**GOV044-18                      This matter was considered earlier in the Meeting**  
**(see Minute No. 418).**

**Minute No: 421****GOV045-18****Minutes of the Audit, Risk and Improvement Committee: Special Purpose Meeting held on 15 October 2018 and Ordinary Meeting held on 17 October 2018****File Number: 2017/264845**

RESOLVED: (Councillor Plibersek/Councillor Forshaw\*)

THAT:

1. The minutes of the Special Purpose Meeting of the Sutherland Shire Council Audit, Risk and Improvement Committee held on 15 October 2018 be received and noted.
2. The minutes of the Meeting of the Sutherland Shire Council Audit, Risk and Improvement Committee held on 17 October 2018 be received and noted.

**Minute No: 422****SER037-18****2018 Sutherland Shire Literary Competition Report****File Number: 2017/280489, 2017/280490**

RESOLVED: (Councillor Collier/Councillor Croucher)

THAT:

1. Council endorse the continuation of the Sutherland Shire literary competition on a cost neutral basis.
2. The next literary competition be held as part of the First Encounters 2020 event, and be reviewed thereafter to determine the most suitable frequency for the competition.
3. Literary patrons be secured as ambassadors of future literary competitions to enhance the profile and grow the success of future competitions.
4. All those involved in the Literary Competition, including the Manager Library Services and Council's Library staff, be thanked for their efforts.

**Minute No: 423****SER038-18****Compulsory Acquisition of Open Space at 7-8/1R The Esplanade, Sylvania  
File Number: 2015/4570**

MOTION: (Councillor Johns/Councillor Simone)

THAT:

1. The report be noted.
2. Council re-enter negotiations with the land owner to achieve a suitably agreeable price.
3. If an agreement cannot be reached, the matter be referred to the Land and Environment Court.

AMENDMENT: (Councillor Plibersek/Councillor Boyd)

THAT:

1. Council make an application to the Minister for Local Government and the Governor for approval to acquire 7-8/1R The Esplanade, Sylvania described as Lot 7 Sec B DP 12157 and Lot 121 Sec B DP 12157 by compulsory process under section 186(2) (a) of the Local Government Act 1993 for the purpose of public open space in accordance with the requirements of the Land Acquisition (Just Terms Compensation) Act 1991.
2. The land is to be classified as community land.
3. In accordance with the Power of Attorney dated 24 October 2018, the Acting General Manager execute any necessary documentation to give effect to this resolution.
4. 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: Contract, transfer and any other associated documentation to give effect to this resolution.

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

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

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

**Against** the Amendment were Councillors Croucher, Johns, Nicholls, Riad, Simone and Steinwall.

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

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

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

**Against** the Resolution were Councillors Croucher, Johns, Nicholls, Riad and Simone.

**Minute No: 424**

**INF048-18**

**Cronulla Town Centre - Detailed Design Stage 2**

**File Number: 2016/238707**

RESOLVED: (Councillor Simone/Councillor Johns)

THAT:

1. Council authorise the commitment of funds to commence the Cronulla Town Centre - Stage 2 detailed design in accordance with Option 1.
2. Council forms a stakeholder working group to workshop the detailed design options for the Cronulla Town Centre – Stage 2.
3. A report be provided to identify whether internal borrowings can be temporarily made to fund the project on a short-term basis.

**Minute No: 425**

**INF049-18**

**Sandy Point RFS Project Review and Closure Report**

**File Number: 2017/269034**

RESOLVED: (Councillor Plibersek/Councillor Forshaw\*)

That the Sandy Point RFS closure report be received and noted.



**Minute No: 426**

**PLN047-18                    Marine Park Submission**  
**File Number: 2015/47206**

RESOLVED: (Councillor Johns/Councillor Plibersek)

That Council endorse the draft submission to the NSW Department of Primary Industries regarding the proposed Sydney Marine Park and notify the NSW Department of Primary Industries of Council's position.

**Minute No: 427**

**PLN048-18                    Development Contribution Plans Amendment 2**  
**File Number: 2018/311885**

RESOLVED: (Councillor Riad/Councillor Johns)

THAT:

1. Prior to exhibition of the draft plan, the works schedule of the Draft Section 7.12 Development Contribution Plan 2016 (Amendment 2) be amended to include appropriate funding for a new amenities building at the park (Old Illawarra Reserve) at 150 Old Illawarra Road, Barden Ridge.
2. This report be deferred to the next round of Council.
3. Councillors receive a briefing on areas of concern.

**Minute No: 428**

**PLN049-18                    Preliminary Heritage Assessment for House at 65 Hotham Road Gymea**  
**File Number: 2018/319322**

RESOLVED: (Councillor Plibersek/Councillor Forshaw\*)

THAT:

1. Council apply an Interim Heritage Order covering the house at 65 Hotham Road Gymea (Lot 24A DP 26995).
2. The General Manager be given delegation to procedurally make the Interim Heritage Order.
3. The owner be advised of the Interim Heritage Order.
4. A heritage consultant be engaged to carry out a detailed heritage assessment of 65 Hotham Road Gymea.

**Minute No: 429****PLN050-18****Sydney Trains Draft Tree Management Plan****File Number: 2015/87349**

\*\*\*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 endorse the draft submission to Sydney Trains Draft Tree Management Plan and notify Sydney Trains of Council's position.
2. The Mayor writes to the four local State Members of Parliament seeking support for Council's submission.
3. Council receive an update on the progress of this Management Plan.

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

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

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

Councillor Nicholls returned to the Meeting at this stage (7:56pm).

**Minute No: 430****PLN051-18****Draft Local Strategic Planning Statement - Productivity Priorities****File Number: 2018/313212**

RESOLVED: (Councillor Plibersek/Councillor Forshaw\*)

That the Strategic Planning Unit incorporate the productivity strategic directions detailed in this report into Sutherland Shire's draft Local Strategic Planning Statement.

**Minute No: 431****Procedural Motion**

MOTION: (Councillor Johns/Councillor Pesce)  
That Councillor Scaysbrook assume the Chair.

The Procedural Motion on being put to the Meeting was carried.

The Mayor, Councillor Pesce, vacated the Chair and left the Meeting (8:00pm).  
Councillor Scaysbrook assumed the Chair.

**Minute No: 432**

**COR041-18            Report and Minutes of the Meetings of the Sutherland Traffic and Traffic  
Safety Committee and Consultative Traffic Forum held on Friday, 2  
November 2018  
File Number: 2016/253677**

\*\*\*The Mayor, Councillor Pesce, declared a pecuniary interest in this matter, left the Meeting, took no part in the discussion and did not vote.

RESOLVED: (Councillor Croucher/Councillor Johns)  
THAT:

1. The committee recommendations contained in the Minutes of the Sutherland Traffic and Traffic Safety Committee Meeting held on Friday, 2 November 2018 be adopted; subject to the following change:
  - a. In addition to Item STR132-18 – Hay Avenue car park, Caringbah – the existing thirteen spaces of ‘½P 8.30AM-6PM MON-FRI 8.30AM-12.30PM SAT’ be converted to ‘1P 8.30AM-6PM MON-FRI 8.30AM-12.30PM SAT’; and
  - b. The Public Safety & Lifeguards Unit be advised of Council’s decision for enforcement purposes.
  - c. The Sutherland Traffic and Traffic Safety Committee review the traffic flow and adequacy of the number of disabled parking spaces within the car park at Hay Avenue, Caringbah.
2. The recommendations contained in the Minutes of the Consultative Traffic Forum Meeting held on Friday, 2 November 2018 be adopted.

The Mayor, Councillor Pesce, returned to the Meeting and resumed the Chair (8.15pm).

**Minute No: 433**

**COR042-18                      Council Rating for 2019/20**  
**File Number: 2018/323748**

RESOLVED: (Councillor Scaysbrook/Councillor Riad)

That this matter be deferred to a Special Council Meeting, on a date to be determined.

**Minute No: 434**

**MOT034-18                      Proposed Mobile Phone Facility - Castelnau Street, Caringbah South**  
**File Number: 2018/320640**

RESOLVED: (Councillor Johns/Councillor Collier)

THAT:

1. Council makes an urgent submission to Cyient Australia Pty Ltd for Telstra in respect of the proposed mobile phone base station deployment code C564:2011 near to 59 Castelnau Street, Caringbah South asking that the provider gives very serious consideration to the genuine concerns raised in submissions made by nearby residents, including:
  - Electro-magnetic emissions in close proximity to residential living and sleeping areas in nearby homes;
  - The visual impact of the proposed pole-top antennae and ground level equipment shelter;
  - Adverse impact on residential property values; and
  - The decision to locate the facility in a wholly residential location.and in view of these concerns, requests that the provider seeks out an alternative, less sensitive location for the proposed facility.
2. Make urgent representations to the Member for Cook, Prime Minister Hon Scott Morrison MP to intervene on compassionate grounds to encourage Telstra and its contractors to actively seek an alternative non-intrusive and less sensitive location for its proposed facilities at 59 Castelnau Street, Caringbah South.
3. Advise the Prime Minister's electorate office and his office in Canberra of this resolution.

**Minute No: 435**

**MOT035-18                    Sustainability and Energy Efficiency for Council Infrastructure Projects**  
**File Number: 2015/221241**

RESOLVED: (Councillor Steinwall/Councillor Boyd)

THAT:

1. Council infrastructure projects, including the Sutherland Entertainment Centre, adopt best practice using sustainable materials and applying energy efficiency principles through the use of renewable sources where appropriate.
2. This aspect be included in Council's regular update reports on the Sutherland Entertainment Centre major refurbishment.

**Minute No: 436**

**MOT036-18                    Integrated Transport Strategy - Public Consultation**  
**File Number: 2018/323480**

RESOLVED: (Councillor Johns/Councillor Riad)

THAT:

1. Council hold public information sessions and invite community feedback on the preliminary findings of the Integrated Transport Strategy on public transport and road infrastructure within the Shire.
2. The consultation be completed as soon as practical.
3. Council write to all major political parties, informing them of the consultation findings so that they can inform transport and road infrastructure policy positions.
4. Councillors be invited to attend information sessions.

**Minute No: 437**

**MOT037-18                    Submissions on Development Applications Referred to Planning Panels**  
**File Number: 2016/261299, 2018/295236**

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

RESOLVED: (Councillor Johns/Councillor Riad)

THAT:

1. Council receives a report on development applications that are to be referred for determination to the Sutherland Shire Local Planning Panel and the Sydney South Planning Panel.
2. The report includes the staff assessment and recommendation on each development application, to allow Council, if it chooses to, to make a submission to the relevant panel on any item.
3. Council submissions are on the basis of Council being the elected body acting as the voice of the community, independent of the assessment report and recommendations made to the panel by staff; and recognises that Council is not a determining authority.
4. Council submissions to the panel be accompanied by a request that the submission be made available to all members of the relevant panel.
5. In exceptional circumstances, in consultation with the Mayor, staff may report directly to the Panel.

Councillor Forshaw returned to the Meeting at this stage (8:56pm).

**Minute No: 438**

**MOT038-18**

**Vale - Stanley James "Jim" McIntyre**

**File Number: 2016/235106**

RESOLVED: (Councillor Forshaw/Councillor Croucher)

THAT Council:

1. Notes the sad passing of Stanley James "Jim" McIntyre, on 29 October 2018, at age 92, and extends its condolences to his wife Joy, his son Greg and his family and many friends.
2. Recognises Jim's many public and civic contributions including his service in the Australian Navy during World War II, 26 years as a Director of the Sutherland United Services Club including 23 years as its President, attendance to and officiating of the Anzac Day Dawn services in Sutherland for over 30 years, his tireless work in support of our returned servicemen and servicewomen and for our Shire community.

At this stage of the Meeting, all stood for a minute of silence in honour of Stanley James "Jim" McIntyre.

**Minute No: 439****MOT039-18****Solar Panels on Council Owned Buildings****File Number: 2015/46635**

RESOLVED: (Councillor McLean/Councillor Plibersek)

THAT Council receive a report within the next four months that details the:

1. Potential to implement solar panels on Council owned building roof tops, aimed at reducing Council's overall network-supplied electricity demand and consumption, and
2. Financial and other benefits and risks achieved by solar panel installations at domestic, commercial, other Councils and State/National, Governments including other countries users, of roof top solar electricity generation and supply, and
3. Opportunity for excess electricity generated to be sold / returned back into the network, and or including use by Council at other sites.

**Minute No: 440****Proposed Playground – 1R Mathers Place, Menai****File Number: 2018/324432**

Councillor Riad requested Business Without Notice concerning a Proposed Playground at 1R Mathers Place, Menai be considered as a matter of urgency.

RESOLVED: (Councillor Riad/Councillor Scaysbrook)

That permission be granted to bring forward Business Without Notice regarding a Proposed Playground at 1R Mathers Place, Menai.

**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, Johns, Nicholls, Forshaw, McLean, Riad, Scaysbrook, Simone and Steinwall.

**Against** the Resolution was Councillor Plibersek.

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: 441****BWN017-18****Proposed Playground - 1R Mathers Place, Menai****File Number: 2018/324432**

RESOLVED: (Councillor Riad/Councillor Scaysbrook)

THAT:

1. A report be prepared within four months considering the provision and need for a playground on the public reserve at 1R Mathers Place, Menai to enable the proposal to be considered for inclusion in the 2019/2020 Operational Plan Capital Program.
2. The report also examine availability of funding the proposal from the E Ward allocation of Suez funds.

**PETITION****Minute No: 442****Proposed Playground – 1R Mathers Place, Menai****File Number: 2018/324432**

Councillor Riad tabled a petition from residents supporting a proposed playground at 1R Mathers Place, Menai.

**Personal Statement by Councillor Scaysbrook**

Councillor Scaysbrook noted the recent passing of Ian Kiernan, the founder of Clean Up Australia.

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

**Minute No: 443****CONSIDERATION OF BUSINESS IN CLOSED SESSION (9:15pm)**

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)

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:

**INF011A-18                      Container Deposit Scheme - VISY Deed of Agreement**  
**File Number: 2015/34590**

**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.

**COR005A-18                      40 Rutherford Avenue, Burraneer - Drainage Works**  
**File Number: 2015/226418**

**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: 444****INF011A-18                    Container Deposit Scheme - VISY Deed of Agreement  
File Number: 2015/34590**

\*\*\*Councillor Riad 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 Plibersek/Councillor Forshaw\*\*)

THAT:

1. Council enter into a Refund Sharing Agreement with Visy Recycling subject to the terms and conditions being to the satisfaction of the General Manager.
2. Council approve a two year extension from 1 November 2019 of the existing contracts with Visy Recycling subject to the terms and conditions being to the satisfaction of the General Manager.
3. In accordance with the Power of Attorney dated 24 October 2018, the Acting General Manager execute any necessary documentation to give effect to this resolution.
4. 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: Refund Sharing Agreement, Extension of Contract, and any other associated documentation to give effect to this resolution

Other Party: Visy Recycling

**Minute No: 445****COR005A-18                    40 Rutherford Avenue, Burraneer - Drainage Works  
File Number: 2015/226418**

RESOLVED: (Councillor Plibersek/Councillor Forshaw\*\*)

THAT:

1. Council note the decision of the Acting General Manager to enter into a construction contract for works valued above \$150,000 without calling tenders in view of the urgency with which works should proceed.
2. Council note the creation of a new drainage easement burdening No. 40 Rutherford Avenue and the expungement of the existing easement without compensation payable to or by Council.

At this stage the Meeting moved back into Open Session.

The Meeting closed at 9:18pm.