



Minutes

Council Meeting

Monday, 15 April 2019

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 Forshaw, Councillor Johns, Councillor McLean, Councillor Nicholls, Councillor Provan, Councillor Plibersek, Councillor Riad, Councillor Scaysbrook, Councillor Simone, Councillor Simpson and Councillor Steinwall.

STAFF IN ATTENDANCE: The Chief Executive Officer (Manjeet Grewal), Director Corporate Support (Clare Phelan), Director Shire Infrastructure (Peter Hazeldine), Director Shire Planning (Peter Barber), Acting Director Shire Services (Lani Richardson), Acting Manager Governance Risk and Compliance (Nicole Lewis), Media and Communications Officer (Jane Dyson), Team Leader Governance (Debbie Lewis), Governance Advisor (Rachael Zhura), Governance Officer (Jenni Dovey) 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 Father Jerzy Chrzczonowicz of St Joseph's Como Oyster Bay.

Minute No: 71

APOLOGY

RESOLVED: (Councillor Pesce/Councillor Provan)

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

DISCLOSURES OF INTEREST

File Number: 2015/14239

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

SER002A-19 Acquisition of Land for Open Space – Kirrawee
File Number: 2018/297916

advising that he has a personal connection to one of the parties involved in it and will be leaving the Chamber should it be called.

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

PLN011-19 Planning Proposal to Heritage List 65 Hotham Road Gymea
File Number: 2018/319322

advising that she is friends with the nephew of the owner of the building and she will be leaving the room should it be called.

Minute No: 72

CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

RESOLVED: (Councillor Simpson/Councillor Provan)

That the Minutes of the Ordinary Council held on Monday 18 March 2019, being Minutes Numbered 37 to 67 inclusive, be and are hereby confirmed as a correct record.

Minute No: 73

RESOLVED: (Councillor Provan/Councillor Simpson)

That the Minutes of the Extraordinary Council held on Monday 25 March 2019, being Minutes Numbered 68 to 70 inclusive, be and are hereby confirmed as a correct record.

Having declared a Conflict of Interest at the beginning of the Meeting, Councillor Simone left the Chambers (6:35pm) prior to the commencement of presentations.

PRESENTATION

Mr David Wenkart, Deputy Chief Executive Macquarie Health Corp, accompanied by Mr Stephen Phillips of Imagescape Design Studios, provided a presentation in relation to item PLN011-19 - Planning Proposal to Heritage List 65 Hotham Road Gymea.

Councillor Simone returned to the Meeting (6:42pm).

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

Minute No: 74

GOV010-19 **Minutes of the Audit, Risk and Improvement Committee Meeting held on 7 March 2019**
File Number: 2017/264845

RESOLVED: (Councillor Plibersek/Councillor Scaysbrook)

THAT:

The Minutes of the meeting of the Sutherland Shire Council Audit, Risk and Improvement Committee held on 7 March 2019 be received and noted.

Minute No: 75

GOV011-19 **Cash Payments and Investments Report - February 2019**
File Number: 2018/315796

RESOLVED: (Councillor Provan/Councillor Plibersek*)

THAT:

The information concerning Bank Balances and Investments held as at 28 February 2019, be received and noted.

Minute No: 76

GOV012-19 **Writing-Off Of Rates And Charges Under Delegated Authority For The Period 1 July 2018 To 31 December 2018**
File Number: 2018/317088

RESOLVED: (Councillor Provan/Councillor Plibersek*)

THAT:

The report on "Writing-Off of Rates and Charges Under Delegated Authority for the Period 1 July 2018 - 31 December 2018", be received and noted.

Minute No: 77

SER003-19 **Proposed Drainage Easement - 42R Hume Rd, Cronulla**
File Number: 2019/334106

RESOLVED: (Councillor Provan/Councillor Plibersek*)

THAT:

1. An Easement for Services (Drainage) be granted over Council land described as 42B Hume Rd, Cronulla (Lot 314 DP 8564) in favour of 37-39 Girrilang Rd, Cronulla (Lot 1-10 SP 13184) at terms and conditions to the satisfaction of the Acting General Manager.
2. In accordance with the Power of Attorney dated 24 October 2018 (Registered 29 October 2018 Book 4751 No. 700), the Acting General Manager execute any necessary documentation to give effect to this resolution.

Minute No: 78

SER004-19 **Draft Open Space and Recreation Strategy**
File Number: 2017/278982

RESOLVED: (Councillor Simpson/Councillor Pesce)

THAT:

1. Council endorse public exhibition of the draft Sutherland Shire Open Space and Recreation Strategy for a period of 28 days.
2. Following exhibition the feedback be reviewed and a final strategy be submitted to Council for endorsement.
3. In light of the evidence of increasing use of both open space and Council's playing fields, Council re-establish the Sporting Bodies Working Party with the same charter as the Sporting Committee in the last term of Council.

Minute No: 79

INF005-19 **Dog Walking on Silver Beach Proposal**
File Number: 2017/263591

RESOLVED: (Councillor Provan/Councillor Plibersek*)

THAT:

There be no change to the current restrictions of dogs and horses on Silver Beach at Kurnell and the matter be reviewed in September 2019 and the results briefed to the Mayor and A Ward Councillors.

Minute No: 80**INF006-19****Request for Playground at 1R Mathers Place, Menai****File Number: 2015/78939**

Councillor Simpson tabled information regarding play equipment supplies in relation to this item.

RESOLVED: (Councillor Riad/Councillor Scaysbrook)

THAT:

1. An Action Plan for Play be developed to support the implementation of the proposed Open Space and Recreation Strategy.
2. The provision of play facilities at 1R Mathers Place, Menai proceed forward to initial concept stage.
3. The Concept stage be reviewed by the Ward Councillors prior to public consultation.

Minute No: 81**PLN009-19****SSDCP 2015 – Draft Amendment 5 – Boarding Houses****File Number: 2019/334113**

RESOLVED: (Councillor Steinwall/Councillor Boyd)

THAT:

1. Council endorse for public exhibition Sutherland Shire Development Control Plan 2015 (SSDCP2015) Draft Amendment 5, to provide for boarding house controls (as shown in Appendix A & B).
2. The public exhibition timeframe be increased by an additional two weeks.

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, Johns, McLean, Nicholls, Provan, Plibersek, Riad, Scaysbrook, Simone, Simpson and Steinwall.

The decision was unanimous.

Minute No: 82**PLN010-19 Results of Exhibition of Development Contribution Plans Amendment 2
File Number: 2018/311885**

RESOLVED: (Councillor Simpson/Councillor Plibersek)

THAT:

1. The draft amended development contribution plans; Section 7.11 Development Contribution Plan 2016, and Section 7.12 Development Contribution Plan 2016, be adopted as exhibited.
2. A further report be provided to Council on amending the contributions and the methodology in high density areas such as Kirrawee.

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, Johns, McLean, Nicholls, Provan, Plibersek, Riad, Scaysbrook, Simone and Simpson.

Against the Resolution was Councillor Steinwall.

Minute No: 83**PLN011-19 Planning Proposal to Heritage List 65 Hotham Road Gymea
File Number: 2018/319322**

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

A RESCISSION MOTION has been lodged on the following Resolution.

MOTION: (Councillor Johns/Councillor Provan)

THAT:

1. The item be deferred to the Council Meeting to be held on 20 May 2019.
2. The owner of the site be requested to provide Council two weeks prior to 20 May 2019 a detailed option position in regard to the listed item as identified at the Council Meeting of 15 April 2019.
3. The owner of the property be requested to make a formal submission in response to the heritage report provided to the Council on 15 April 2019 that Councillors can review two weeks prior to the Council Meeting of 20 May 2019.

4. The authors of the heritage report, if permitted by the owners of the property, undertake a further inspection of the property both externally and internally and their report be updated accordingly prior to the Council Meeting identified in item 1.

AMENDMENT: (Councillor Plibersek/Councillor Steinwall)

THAT:

1. Council endorses the Planning Proposal to add 65 Hotham Road Gynea to Schedule 5 Environmental Heritage, for submission to NSW Planning and Environment for a Gateway Determination.
2. Subject to a positive Gateway Determination, the Planning Proposal be exhibited in accordance with Council's policies and the conditions of the Gateway Determination.

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, Collier, Forshaw, McLean, Plibersek, Scaysbrook and Steinwall.

Against the Amendment were the Mayor, Councillor Pesce, together with Councillors Johns, Nicholls, Provan, Riad 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 Councillors Boyd, Collier, Forshaw, McLean, Plibersek, Scaysbrook and Steinwall.

Against the Resolution were the Mayor, Councillor Pesce, together with Councillors Johns, Nicholls, Provan, Riad and Simpson.

Councillor Simone returned to the Meeting (7:53pm).

Minute No: 84

COR008-19 **Submission to Productivity Commission Economic Regulation of Airports
Draft Report**
File Number: 2019/329571

RESOLVED: (Councillor Provan/Councillor Plibersek*)

THAT:

The report, "Submission to Productivity Commission Economic Regulation of Airports Draft Report" be received, noted and endorsed by Council.

Minute No: 85

COR009-19 **Report and Minutes of the Meetings of the Sutherland Traffic and Traffic
Safety Committee and Consultative Traffic Forum held on Friday, 5 April
2019**
File Number: 2015/2036

RESOLVED: (Councillor Provan/Councillor Plibersek*)

THAT:

1. The committee recommendations contained in the Minutes of the Sutherland Traffic and Traffic Safety Committee Meeting held on Friday, 5 April 2019 be adopted.
2. The recommendations contained in the Minutes of the Consultative Traffic Forum Meeting held on Friday, 5 April 2019 be adopted.

Minute No: 86

COR010-19 **Planning Panel Agenda Items for Determination**
File Number: 2016/254538, 2016/261299

RESOLVED: (Councillor Provan/Councillor Plibersek*)

THAT:

The report Planning Panel Agenda Items for Determination be received and noted.

Minute No: 87**MOT007-19****Trialling Solar Lights to Illuminate Laneways****File Number: 2015/10961**

RESOLVED: (Councillor Simpson/Councillor McLean)

THAT Council:

1. Undertakes a small scale, localised field trial of a range of low cost solar lights in the Bangor area, as part of a study into the merits and limitations of the use of such devices in public laneways, consistent with the adopted Delivery Program and Operational Plan towards identifying opportunities and initiatives to reduce our impact on natural resources and the environment.
2. Receives a report in the coming six months on the viability of such devices as a lighting source to illuminate paths and walkways in suburban areas and its associated long term financial implications.

BUSINESS WITHOUT NOTICE**Minute No: 88****Management and Use of Weed Killers Containing Glyphosate****File Number: 2015/26100**

Councillor Collier requested Business Without Notice concerning the Management and Use of Weed Killers Containing Glyphosate be considered as a matter of urgency.

RESOLVED: (Councillor Collier/Councillor Plibersek)

That permission be granted to bring forward Business Without Notice regarding the Management and Use of Weed Killers Containing Glyphosate.

Following the Resolution of Council, 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: 89**BWN003-19****Management and Use of Weed Killers Containing Glyphosate****File Number: 2015/26100**

MOTION: (Councillor Collier/Councillor Plibersek)

THAT:

1. At its next meeting, Council receive a Report on the management and use by Council employees and contractors of weed killers (herbicides) containing *glyphosate*, including, but not limited to:
 - i. the product known as "Roundup;" and
 - ii. the product known as "Barmac Clear-up Bio 360".

2. The Report:
 - i. outline the extent to which weed killers containing *glyphosate* are used in Council parks, playgrounds, gardens and other public places;
 - ii. indicate the training and qualifications of Council employees using and applying weed killers containing *glyphosates*, including O H & S procedures;
 - iii. outline Council policies and programs governing the registration, public notification and use of products containing *glyphosate* in the Shire; and
 - iv. identify alternative, *non-glyphosate* products as well as alternative procedures, systems and technologies which may be used to safely and effectively control weeds across the Shire.

AMENDMENT: (Councillor Simpson/Councillor Simone)

THAT:

1. In the coming two months, Council receive a Report on:
 - i. the safety, handling, public notification and management and use of weed killers (herbicides) containing glyphosates used in Council parks, playgrounds, gardens and other public places; and
 - ii. identify alternative, non-glysohate solutions which may be used to safely and effectively control weeds.
 - iii. Information from relevant external agencies be incorporated into the report.

2. Councillors receive a briefing on this matter.

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 Johns, Nicholls, Provan, Riad, Simone and Simpson.

Against the Amendment were Councillors Boyd, Collier, Forshaw, McLean, Plibersek, Scaysbrook and Steinwall.

The Mayor, Councillor Pesce, used his casting vote in favour of the Amendment.

The Motion on being put to the Meeting was carried to become the RESOLUTION of 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, Johns, McLean, Nicholls, Provan, Riad, Simone, Simpson and Steinwall.

Against the Resolution were Councillors Plibersek and Scaysbrook.

Personal Statement by Councillor Simpson

Councillor Simpson advised that in relation to BWN002-19 - Repair of Bus Stop at Alford's Point Road, Alford's Point, resolved at the Council Meeting on 18 March 2019, correspondence was forwarded in accordance with the Council resolution but the only action that has occurred is that the bus shelter has been removed.

The following was resolved:

Minute No: 90

RESOLVED: (Councillor Simpson/Councillor Johns)

THAT:

1. Correspondence be sent to the Minister for Transport and Roads, Premier of NSW and Local MP demanding that the bus shelter be replaced.
2. Each time Council resolves to forward correspondence to Government agencies, the outcome of that correspondence be reported back to Councillors.

PETITION

Minute No: 91 **Removal of Herbicides**
File Number: 2015/26100

Councillor Collier tabled a petition from residents requesting to remove roundup and other chemical herbicides from use in the Sutherland Shire Local Government Area.

CONSIDERATION OF BUSINESS IN CLOSED SESSION

The following matters were listed on the Agenda for consideration in Closed Session of Council for the reasons listed below:

SER001A-19 **T791/18 Provision of Services at The Ridge Golf Course and Driving Range**
- Operational Management & Golf Course Maintenance
File Number: 2018/316634

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.

SER002A-19 **Acquisition of Land for Open Space - Kirrawee**
File Number: 2018/297916

Section 10A(2)(c)(pur) Information that would, if Disclosed, Confer a Commercial Advantage on a Person with Whom the Council is Conducting (or Proposes to Conduct) Business:

This matter is being considered in Closed session as it relates to a proposal for the sale or purchase of land where prior knowledge of this proposal could confer an unfair financial advantage on any person. On balance, the public interest in preserving the confidentiality of information about the reserve price outweighs the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information would put the Council at a competitive disadvantage in its negotiations with a prospective purchaser, preventing it from achieving a 'best value for money' outcome for the community.

INF001A-19 T781/18 Cronulla Boat Ramp Upgrade, Gunnamatta Bay
File Number: 2018/310693

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.

INF002A-19 T792/18 Installation of Gross Pollutant Traps – Gwawley Creek Catchment
File Number: 2018/316635

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.

COR003A-19 Tender for Design Services - Refurbishment of Sutherland Entertainment
Centre (T819/19)
File Number: 2019/337165

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.

Minute No: 92

SER001A-19 T791/18 Provision of Services at The Ridge Golf Course and Driving Range - Operational Management & Golf Course Maintenance
File Number: 2018/316634

RESOLVED: (Councillor Provan/Councillor Plibersek*)

THAT:

1. The tender from Phoenix Sports Management Pty Ltd (ABN 31 61 0124 224) for the provision of Operational Management of the 18 hole Golf Course and Driving Range, at terms and conditions to the satisfaction of the Acting General Manager, be accepted.
2. The tender from Green Options Pty Ltd (ABN 59 002 456 797) for the provision of Golf Course and Driving Range Maintenance for the lump sum price of \$981,360 (excl GST) per annum, at terms and conditions to the satisfaction of the Acting General Manager, be accepted.
3. Pursuant to clause 400 of the Local Government Regulation 2005, the following documents be executed under Common Seal of the Sutherland Shire:

Type of Document: Licence Agreement for Operational Management of The Ridge Golf Course and Driving Range

Other Party: Phoenix Sports Management Pty Ltd (ABN 31 61 0124 224)

Minute No: 93

SER002A-19 Acquisition of Land for Open Space - Kirrawee
File Number: 2018/297916

***Councillor Scaysbrook declared a significant non-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 Provan/Councillor Plibersek*)

THAT:

The recommendation outlined in the report "Acquisition of Land for Open Space - Kirrawee" be accepted.

Minute No: 94**INF001A-19****T781/18 Cronulla Boat Ramp Upgrade, Gunnamatta Bay****File Number: 2018/310693**

RESOLVED: (Councillor Provan/Councillor Plibersek*)

THAT:

1. The tender from Antoun Engineering (Aust) Pty Ltd (ABN43 069 443 769), for the lump sum price of \$1,575,903 (excluding GST), at terms and conditions to the satisfaction of the Acting General Manager, be accepted.
2. Pursuant to clause 400 of the Local Government Regulation 2005, the following documents be executed under Common Seal of the Sutherland Shire:

Type of Document: Contract for the Cronulla Boat Ramp Upgrade, Gunnamatta Bay

Other Party: Antoun Engineering (Aust) Pty Ltd (ABN 43 069 443 769)

Minute No: 95**INF002A-19****T792/18 Installation of Gross Pollutant Traps – Gwawley Creek Catchment****File Number: 2018/316635**

RESOLVED: (Councillor Provan/Councillor Plibersek*)

THAT:

1. The tender from Optimal Stormwater Pty Ltd (ABN 53 139 725 894), for the lump sum of \$332,500 (excluding GST), at terms and conditions to the satisfaction of the Acting General Manager, be accepted.
2. Pursuant to clause 400 of the Local Government Regulation 2005, the following documents be executed under Common Seal of the Sutherland Shire:

Type of Document: Contract for Installation of Gross Pollutant Traps – Gwawley Creek Catchment

Other Party: Optimal Stormwater Pty Ltd (ABN 53 139 725 894)

Minute No: 96

COR003A-19 Tender for Design Services - Refurbishment of Sutherland Entertainment Centre (T819/19)

File Number: 2019/337165

RESOLVED: (Councillor Provan/Councillor Plibersek*)

THAT:

1. The tender from NBRS+CHROFI (NBRS & Partners Pty Ltd ABN 16 002 247 565) for the provision of consultant design services for the Sutherland Entertainment Centre Upgrade project for the lump sum of \$1,583,975 (excl GST), at terms and conditions to the satisfaction of the Chief Executive Officer, be accepted.

2. In accordance with the Power of Attorney dated 24 October 2018 (Registered 29 October 2018, Book 4751 No. 700), Manjeet Grewal, Council's Chief Executive Officer execute any necessary documentation to give effect to this resolution.

The Meeting closed at 8:44pm.