



Minutes

Council Meeting

Monday, 19 August 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 Croucher, Councillor Johns, Councillor McLean, Councillor Nicholls, Councillor Provan, Councillor Plibersek, Councillor Scaysbrook, Councillor Simone, Councillor Simpson and Councillor Steinwall.

STAFF IN ATTENDANCE: Chief Executive Officer (Manjeet Grewal), Director Corporate Support (Clare Phelan), Director Shire Infrastructure (Peter Hazeldine), Director Shire Planning (Peter Barber), Director Shire Services (Michelle Whitehurst), Manager Governance Risk and Compliance (Anton Usher), Manager – Communications & Engagement (Rebecca Dalton), Manager – Environmental Science (Ian Drinnan), Team Leader Governance (Debbie Lewis), Governance Advisor (Bernadette Feltham), Governance Officer (Jenni Dovey) and Governance Officer (Jill Bleszynski).

ACKNOWLEDGEMENT OF COUNTRY

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

OPENING PRAYER

The Meeting was opened with prayer by Pastor Brad Bonhomme of Horizon Church.

Minute No: 202

APOLOGY

RESOLVED: (Councillor Provan/Councillor Plibersek)

That apologies tendered on behalf of Councillor Forshaw and Councillor Riad be accepted and leave of absence granted.

DISCLOSURES OF INTEREST

File Number: 2015/14239

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

COR007A-19 Update on Sale of 9 Kingsway Cronulla
File Number: 2017/268207

advising that, as previously declared, her husband uses the same Lawyers.

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

MOT021-19 Major Telecommunication Carriers Mobile Phone Base Station Deployment –
Request for Project Plans
File Number: 2018/314110

advising that, in accordance with practice and as previously declared, he is a resident of Kareela and accordingly will leave the room at the appropriate time.

Councillor Boyd declared a pecuniary interest in the following matter:

COR007A-19 Update on Sale of 9 Kingsway Cronulla
File Number: 2017/268207

advising that his employer is the Solicitor for the applicant and will leave the room if required.

Minute No: 203

Procedural Motion

To Bring Forward Consideration of MM015-19 and MM016-19

RESOLVED: (Councillor Simpson/Councillor Provan)

That items MM015-19 and MM016-19 be brought forward as the next items of business.

Minute No: 204

MM015-19 Mayoral Minute - Retirement of Chief Inspector Mark Magrath
File Number: 2019/328472

RESOLVED: (Councillor Pesce/Councillor Croucher)

THAT:

Congratulations be extended to Chief Inspector Mark Magrath on his long and distinguished career in the NSW Police Force and to the Sutherland Shire.

Minute No: 205

MM016-19 **Mayoral Minute - Dunlea Centre's 80th Birthday**
File Number: 2015/40199

RESOLVED: (Councillor Pesce/Councillor Steinwall)

THAT:

Council extends congratulations to Dunlea Centre in achieving a significant milestone – its 80th Birthday, and on the opening of its museum to preserve its rich history.

Resumption of Standing Orders

At this stage of the Meeting, Standing Orders were resumed (6.54pm).

PUBLIC FORUM

The following speakers addressed Council:

Ms Rachel Pilati COR041-19 – BWN001-19 Linden Street Pinch Point Project

Ms Allison Grimison COR041-19 - BWN001-19 Linden Street Pinch Point Project

Mr John Chivers COR034-19 - Request to Review Council's Decision – Removal of Tree in Road Reserve adjacent to 3 Caroline Street Oyster Bay

Minute No: 206

CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

RESOLVED: (Councillor Simpson/Councillor Nicholls)

That the Minutes of the Ordinary Council held on Monday 15 July 2019, being Minutes Numbered 175 to 201 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 Simpson/Councillor Provan*)"

Minute No: 207

Procedural Motion

To Bring Forward Consideration of COR041-19, MOT021-19 and COR034-19

RESOLVED: (Councillor Simpson/Councillor Plibersek)

That items COR041-19, MOT021-19 and COR034-19 be brought forward as the next items of business.

Minute No: 208

COR041-19 **Report and Minutes of the Meetings of the Sutherland Traffic and Traffic Safety Committee and Consultative Traffic Forum held on Friday, 2 August 2019**
File Number: 2015/2036

RESOLVED: (Councillor Simpson/Councillor Scaysbrook)

THAT:

1. The committee recommendations contained in the Minutes of the Sutherland Traffic and Traffic Safety Committee Meeting held on Friday 2 August 2019, attached as Appendix A, be adopted excluding BWN001-19 Linden Street Pinch Point Project.
2. The recommendations contained in the Minutes of the Consultative Traffic Forum Meeting held on Friday 2 August 2019, attached as Appendix B, be adopted.
3. Council write to Service New South Wales and the Local State Member regarding the Linden Street project requesting consideration be given to:
 - a. Allowing the straight movement for eastbound approach in The Grand Parade at the intersection of Linden Street to continue.
 - b. That additional traffic counts take place at the above intersection, after all works have been completed along the Old Princes Highway and before any traffic changes take place at The Grand Parade, Sutherland.

During debate on COR041-19 the following Procedural Motion was moved:

PROCEDURAL MOTION: (Councillor Plibersek/Councillor Collier)

That Councillor Simpson be granted an additional two minutes to address item COR041-19.

Minute No: 209

**MOT021-19 Major Telecommunication Carriers Mobile Phone Base Station Deployment
- Request for Project Plans
File Number: 2018/314110**

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

RESOLVED: (Councillor Plibersek/Councillor McLean)

THAT:

The CEO write to all relevant major telecommunication carriers under clause 3.1.1 of the mobile phone base station deployment Industry Code requesting their project plans for the roll out of mobile phone radiocommunication infrastructure that supports 4G and 5G in the Sutherland Shire local government area.

Councillor Collier returned to the Meeting prior to the discussion of the following item (7.53pm).

Minute No: 210

**COR034-19 Request to Review Council's Decision - Removal of Tree in Road Reserve
Adjacent 3 Caroline Street, Oyster Bay
File Number: 2019/342281**

RESOLVED: (Councillor Croucher/Councillor Nicholls)

THAT:

1. The approval for the tree in the nature reserve at 3 Caroline Street, Oyster Bay, to be removed be provided.
2. The property owner be advised of Council's decision.

During debate on COR034-19 the following Procedural Motion was moved:

PROCEDURAL MOTION: (Councillor Steinwall/Councillor McLean)

That Councillor Plibersek be granted an additional two minutes to address item COR034-19.

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, Provan, Scaysbrook, Simone, Simpson and Steinwall.

Against the Resolution were Councillors McLean and Plibersek.

A Division was requested on the Procedural Motion and the following votes were recorded:

In Favour of the Procedural Motion were Councillors Boyd, Collier, McLean, Plibersek, Scaysbrook, Simpson and Steinwall.

Against the Procedural Motion were the Mayor, Councillor Pesce, together with Councillors Croucher, Johns, Nicholls, Provan and Simone.

Resumption of Standing Orders

At this stage of the Meeting, Standing Orders were resumed (8.25pm).

Minute No: 211

GOV022-19

**Minutes of the Audit, Risk and Improvement Committee Meeting held on
10 July 2019**

File Number: 2017/264845

RESOLVED: (Councillor Simpson/Councillor Provan*)

THAT:

The Minutes of the Meeting of the Sutherland Shire Council Audit, Risk and Improvement Committee held on 10 July 2019 be received and noted.

Minute No: 212

SER010-19

**Proposed Acquisition of Part 170 Karimbla Rd Miranda for Open Space
Purposes**

File Number: 2015/4569

RESOLVED: (Councillor Simpson/Councillor Provan*)

THAT:

1. The acquisition of part Lot 4 DP 21073 known as part of 170 Karimbla Road Miranda to increase open space at Kiah Place Reserve at terms and conditions to the satisfaction of the Chief Executive Officer be approved.
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.

Minute No: 213

INF012-19 Major Infrastructure Projects Review
File Number: 2015/44222

RESOLVED: (Councillor Simpson/Councillor Provan*)

THAT:

The report Major Infrastructure Projects Review be received and noted.

Minute No: 214

INF013-19 Council Property - 168 Oak Road at Kirrawee
File Number: 2018/297916

RESOLVED: (Councillor Simpson/Councillor Provan*)

THAT:

A Working Party for Ward Councillors be established to oversee the preliminary design and usage of the site known as 168 Oak Road at Kirrawee.

Minute No: 215

PLN024-19 Kareela Flying Fox Camp Masterplan
File Number: 2015/64733

RESOLVED: (Councillor Collier/Councillor Johns)

THAT:

1. A Subcommittee of interested Councillors be formed to review the present, proposed Masterplan for the Kareela flying-fox colony.
2. The Subcommittee formally consult representatives of Bates Drive Public School, Sylvanvale and other identified stakeholders and affected Kareela/Kirrawee residents as required.
3. The Federal Member for Hughes and the State Member for Miranda or their representatives be invited to attend Subcommittee meetings as appropriate.
4. A Report be prepared referencing proposed Masterplan for the December meeting of Council's Strategic Planning Committee.
5. Council write to relevant Federal and State Ministers requesting financial assistance for the management of flying-foxes and to consider the reclassification of the grey-headed flying-fox from vulnerable.
6. A briefing be conducted at an appropriate time for all interested Councillors.

During debate on PLN024-19 the following Procedural Motion was moved:

PROCEDURAL MOTION: (Councillor Pesce/Councillor Simpson)

That Councillor Collier be granted an additional two minutes to address item PLN024-19.

Minute No: 216

PLN025-19

IPART Process to Exceed Developer Contribution Cap

File Number: 2019/345640

RESOLVED: (Councillor Simpson/Councillor Provan*)

THAT:

Council confirm its current approach of having in place a Section 7.11 contribution plan and a Section 7.12 contribution plan, established within the standard parameters of the Environmental Planning and Assessment Act and Regulation.

Minute No: 217

PLN026-19

Camellia Gardens Flying Fox Camp Management Update

File Number: 2015/64733

RESOLVED: (Councillor Johns/Councillor Plibersek)

THAT:

1. Council endorse Option 2 (enhanced in-situ management) as the appropriate management strategy under the Camellia Gardens Flying-fox Camp Management Plan.
2. Council approve funding allocation of \$55,000 in the 2019-2020 budget in accordance with this report to undertake Option 2 management actions and that grant funding from State and Federal Government be sought to offset this cost.
3. Council receive a further report after implementation of the preferred option outlining costs for the 2020-2022 period.
4. Representations be made to the State Member for Cronulla and the Federal Member for Cook for assistance with this program.

Councillors Boyd, Collier and Simpson left the Meeting prior to the discussion of the following item (8.45pm).

Minute No: 218**PLN027-19****Sydney South Planning Panel Meeting Time 21 August 2019****File Number: 2016/261299**

RESOLVED: (Councillor Steinwall/Councillor McLean)

That in accordance with the delegation granted by the Council to this Committee it is resolved:

THAT:

The Chief Executive Officer write to the Chairperson of the Sydney South Planning Panel to request that the commencement time for the Meeting scheduled on 21 August 2019 be changed from 2:00pm to 6:00pm to allow for better community access.

Minute No: 219**COR033-19****Section 10.7 Planning Certificate Updates - Bundeena Flood Notations****File Number: 2015/211716**

RESOLVED: (Councillor Simpson/Councillor Provan*)

THAT:

1. Flood notations be added to Section 10.7 planning certificates for properties newly identified as flood affected under the draft Bundeena Creek Floodplain Risk Management Study and Plan.
2. Council write to all affected property owners advising of the changes and making specific reference to the notation to be made to Planning Certificates.

Minute No: 220**COR035-19****Fire & Rescue NSW - Fire Safety Inspection Report****70 Cronulla Street, Cronulla****File Number: 2015/22285**

RESOLVED: (Councillor Simpson/Councillor Provan*)

THAT:

1. Report Reference No. BFS 18/2066 (4260) & BFS 18/3529 (5645) dated 14 March, 2019 on behalf of the Commissioner of Fire & Rescue NSW be recorded as having been tabled at Council's meeting, as required by Part 9.3 Sch.5 Part 8 (17) of the Environmental Planning and Assessment Act 1979; and
2. Council refrain from issuing a fire safety order at this time and instead write to the FRNSW and recommend that it contacts the builder and Strata Corporation to discuss their report and recommendations in the first instance.

Minute No: 221

COR036-19 Exhibition of the Draft Open Space and Recreation Strategy - Report on Submissions Received
File Number: 2017/278982

RESOLVED: (Councillor Simpson/Councillor Provan*)

THAT:

1. Council adopt the Sutherland Shire Open Space and Recreation Informing Strategy (Appendix A), including the minor amendments listed in Appendix B.
2. Council work with key stakeholders to develop the action plans to implement the strategy.

Minute No: 222

COR037-19 Request by Cronulla Surf Life Saving Club Inc. for Council to Extend the Current Financial Guarantee for the Building Improvement Loan
File Number: 2016/255450

RESOLVED: (Councillor Simpson/Councillor Provan*)

THAT:

1. Council act as guarantor for the additional amount of \$400,000 increasing the amount to \$1.9 million to secure Cronulla Surf life Saving Club Inc. increased loan of same to fund building improvements at its surf clubhouse at Cronulla Beach.
2. Any bank service fees and other out of pocket costs incurred by Council in relation to this guarantee be borne by the Club.
3. A condition of its lease is Council be provided with annual confirmation that loan repayments are fully paid on due dates and Council informed of any financial default on the loan as soon as it becomes known to the Club.
4. In accordance with the Power of Attorney dated 24 October 2018 (Registered 29 October 2018, Book 4751 No. 700), Council's Chief Executive Officer execute any necessary documentation to give effect to this resolution.

Councillor Collier returned to the Meeting prior to the discussion of the following item (8.47pm).

Councillor Boyd and Councillor Simpson returned to the Meeting prior to the discussion of the following item (8.49pm).

Minute No: 223

**COR038-19 Local Government NSW Annual Conference 2019 - Reconsideration of
Voting Delegates
File Number: 2015/25361**

RESOLVED: (Councillor Johns/Councillor Simpson)

THAT:

1. Council appoints the Mayor, Councillor Pesce, and Councillors Boyd, Croucher, Forshaw, Johns, McLean, Nicholls, Scaysbrook, Simone and Steinwall as voting delegates, and in the event one of those Councillors cannot attend, any other councillors attending as the alternative delegates, to the Local Government NSW Annual Conference at the William Inglis Hotel, Warwick Farm, from 14-16 October 2019.
2. Council submit the following draft motion for the Conference:
Greater funding and more support be provided, from Federal and State agencies, to all affected Local Government areas for the management and control of flying foxes.

Council initially resolved item COR038-19, with point 1 as above. Following resolution of COR038-19, Councillor Simpson sought leave from the Chairperson to have the item recommitted, with the inclusion of point 2. The resolution was recommitted resulting in Minute No 223 as shown above.

Minute No: 224

**COR039-19 Councillor Numbers for 2020-2024 Term of Office
File Number: 2019/336680**

RESOLVED: (Councillor Simpson/Councillor Provan*)

THAT:

Council retain the current number of 15 Councillors (one of whom is the Mayor) for the 2020-2024 Council term of office.

Minute No: 225

**COR040-19 Monthly Investments Report - July 2019
File Number: 2018/315796**

RESOLVED: (Councillor Simpson/Councillor Provan*)

THAT:

The Monthly Investments Report for the period ending 31 July 2019 be received and noted.

Minute No: 226

**MOT018-19 Pedestrian Refuge in Gerrale Street, South of Ocean Grove Avenue,
Cronulla
File Number: 2019/347915**

RESOLVED: (Councillor Simone/Councillor Provan)

THAT:

1. The conversion of the pedestrian refuge in Gerrale Street, south of Ocean Grove Avenue, Cronulla to a pedestrian crossing be investigated as part of the upcoming Cronulla Town Centre Pedestrian Access Mobility Plan.
2. A report be provided to the next meeting of the Sutherland Traffic and Traffic Safety Committee and subsequent report back to Council on the funding costs.

Minute No: 227

**MOT019-19 Community Food Gardens
File Number: 2015/40378**

RESOLVED: (Councillor Johns/Councillor Boyd)

THAT:

1. A report be provided to Council identifying at least two locations within the local council area for community food gardens focused on vegetables, fruit and herbs.
2. The report identify the opportunities, costs and appropriate partners to undertake a community garden with the aim that it be cost neutral to Council except for the provision of repurposed assets.
3. As far as practical one location be in the Kirrawee, Miranda and Caringbah precincts.
4. Locations selected consider and be compatible with native fauna and flora.

Minute No: 228**MOT020-19****Request for Removal of Tree Adjacent to 125 Manchester Road, Gynea****File Number: 2019/327773**

RESOLVED: (Councillor Collier/Councillor Johns)

THAT:

1. Council receives a report at its next meeting, on the request from petitioners to Councillors assembled for the removal of the tree located on Council property adjacent to 125 Manchester Road, Gynea.
2. The report includes:
 - a. Details of the request, previous applications and the reasons for seeking removal;
 - b. Outcomes from the visual assessment and TRAQ assessment undertaken;
 - c. An assessment against the relevant criteria in Part 4 of Chapter 39 in Sutherland Shire Development Control Plan 2015; and
 - d. Recommendations for the management of the tree and associated costs (if applicable).

URGENT BUSINESS WITHOUT NOTICE**Minute No: 229****Long Wall Mining in the Woronora Catchment Area****File Numbers: 2015/84364 & 2015/84369**

Councillor Steinwall requested Business Without Notice concerning long wall mining in the Woronora catchment area be considered as a matter of urgency.

RESOLVED: (Councillor Steinwall/Councillor Boyd)

That permission be granted to bring forward Business Without Notice regarding long wall mining in the Woronora catchment area.

The Mayor, Councillor Pesce, ruled in accordance with Clause 9.3(b) of Council's Code of Meeting Practice that the matter was of great urgency.

Minute No: 230**BWN013-19****Long Wall Mining in the Woronora Catchment Area****File Number: 2015/84364 & 2015/84369**

RESOLVED: (Councillor Steinwall/Councillor Boyd)

THAT:

1. That Council receive a comprehensive report as to the potential impact of mining operations on the environment, water catchments, water quality and any other items that may be of concern.
2. That Council request that the Minister to not determine a position or any approvals so that Council can make an informed decision and submission on these proposals.
3. That if the minister does not provide additional time to make a fully informed position then Sutherland Shire Council oppose the extension of long wall mining the area surrounding the Woronora Reservoir and notes its concern regarding the potential impact of local mining operations on the quality of drinking water in the Sutherland Shire.
4. Council write to the State Minister for Planning and opens paces and minister for water, as well as local State Members of parliament, seeking guarantees that there will be ;
 - a. No negative impact on the quality of the Sutherland Shires drinking water; and
 - b. No environmental damage occur to the reservoir and catchment area, or the fauna and flora in the impacted areas.
5. That all previous reports be revised and updated to fully inform Council.

Minute No: 231**QUESTION WITH NOTICE****Trialling of Solar Lighting to Illuminate Laneways****File Number: 2015/10961**

Councillor Simpson submitted the following question:

That Council be provided with a project status update.

The Mayor advised that a reply would be provided.

COR007A-19 Update on the Sale of 9 Kingsway, Cronulla
File Number: 2017/268207

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: 232

COR007A-19 Update on the Sale of 9 Kingsway, Cronulla
File Number: 2017/268207

***Councillor Simone declared a significant non-pecuniary interest in this matter and did not vote.

***Councillor Boyd 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 Provan*)

THAT:

1. Council commence legal proceedings seeking orders that the sale is finalised, subject to a review of the matter by the Chief Executive Officer.
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 9:42pm.