



## **Minutes**

### **Council Meeting**

**Held on Monday, 20 February 2017  
commencing at 6:30pm  
in the Council Chambers,  
Level 2, Administration Building,  
4-20 Eton Street, Sutherland**

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

Staff in attendance were the General Manager, Director Corporate Support, Director Shire Services, Director Shire Infrastructure, Director Shire Planning, Acting Manager Communication and Events (Kylie Di Cesare), Acting Manager Governance and Customer Service (Samantha Charlton), Executive Officer - Governance (Karen Barrass) and Supervisor Governance Support (Rachael Zhura).

### **Acknowledgement of Country**

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

### **Opening of the Meeting with Prayer**

The Meeting was opened with prayer by Associate Pastor Jodene Watling of Gynea Baptist Church.

\*\*\*

### **Disclosures of Interest**

**File Number: 2015/14239**

Councillor Johns declared a pecuniary interest in the following matter:

MM009-17            Mayoral Minute  
                         Draft Development Control Plan 2015  
                         File Number: 2016/248002

advising that he still doesn't feel confident that the advice they've got from the Department of Local Government exonerates them from declaring a pecuniary interest so he'll be declaring a pecuniary interest and leaving the Chamber, as there's a number of properties he could be engaged in.

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

MM009-17            Mayoral Minute  
                         Draft Development Control Plan 2015  
                         File Number: 2016/248002

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

## Disclosures Cont'd

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

SER017-17            Early Opening Cafes in Cronulla – Proposed Trial  
                         of Extended Trading Hours  
                         File Number: 2017/265381

advising that he owns cafes within the Shire so if that item does get called he will leave the room.

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

MM009-17            Mayoral Minute  
                         Draft Development Control Plan 2015  
                         File Number: 2016/248002

advising that he's a member of the Sydney South Planning Panel and therefore he will not take part in the discussion on this matter.

**Min No: 230**

**Confirmation of Minutes of Council Meeting  
held on Monday 19 December 2016  
(Minutes Numbered 182 to 229 inclusive)**

RESOLVED: (Councillor Provan/Councillor Nicholls)

That the Minutes of the Council Meeting held on 19 December 2016, being Minutes Numbered 182 to 229 inclusive, be and are hereby confirmed as a correct record.

**Min No: 231**

**MM008-17            Mayoral Minute  
                         2017 Australia Day Honours  
                         File Number: 2015/14441**

The Australia Day Honours recognises and celebrates those who make a difference, those who achieve their best and those who serve others.

On behalf of Sutherland Shire Council, I would like to extend congratulations to the following members of our community who were honoured in the 2017 Australia Day Honours:

Min No: 231 Cont'd

MM008-17

- Cr Barry Collier – awarded the Medal of the Order of Australia for service to the NSW Parliament, to the law and to education.
- Mr Robert Harrison – awarded the Medal of the Order of Australia for service to surveying and to professional organisations.
- Mrs Barbara Holden – awarded the Medal of the Order of Australia for service to lawn bowls.
- Mrs June Roe - awarded the Medal of the Order of Australia for service to veterans and their families.
- Mr John Salmon – awarded the Medal of the Order of Australia for service to the environment and to surf lifesaving.
- Mrs Kerryn Salmon – awarded the Medal of the Order of Australia for service to the environment and to surf lifesaving.
- Mrs Joan Stilgoe – awarded the Medal of the Order of Australia for service to hockey and to the community.
- Mr Ralph Stilgoe – awarded the Medal of the Order of Australia for service to sailing and to the community.
- The Late Mr Brian Trouville – awarded the Medal of the Order of Australia for service to sport through canoeing, kayaking and to surf lifesaving.
- Mr Wayne Turley – awarded the Medal of the Order of Australia for service to lawn bowls.
- Mr Kingsley Munday – awarded the Member of the Order of Australia for significant service to the community as a supporter of a range of veterans', indigenous skills development and cultural organisations.
- Ms Nicolette Norris – awarded the Member of the Order of Australia for significant service to the community, particularly to the rights, protection and welfare of children.
- Dr Pedro Harris – awarded the Public Service Medal for outstanding public service in NSW through the design and delivery of information technology solutions.
- Mr Gregorie McTaggart – awarded the Public Service Medal for outstanding public service to the maintenance and conservation of the Sydney Opera House.
- Mr Peter Riordan – awarded the Public Service Medal for outstanding public service to industrial relations and education in NSW.
- Mr Shannon Crofton – awarded the Emergency Services Medal for service to the NSW SES Sutherland Unit and Sydney Southern Region Unit, and for service as a full-time firefighter with Fire & Rescue NSW.

RESOLVED: (The Mayor, Councillor Pesce/Councillor Simpson)

That congratulations be extended to the Sutherland Shire recipients, and the family of the Late Mr Trouville, who were honoured in the 2017 Australia Day Honours.

**Min No: 232**

**MM009-17**

**Mayoral Minute**

**Draft Development Control Plan 2015**

**File Number: 2016/248002**

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

Councillors will recall that on 21 November 2016, Council resolved:

*“THAT Consistent with the Minister for Local Government’s written advice of 9 June 2016 (confirmed in his written advice of 7 November 2016), that under Section 74B of the Environmental Planning and Assessment Act 1979, Council delegate the making of Draft Development Control Plan 2015 to the Secretary of the Department of Planning and Environment, and recommend that the Secretary make the plan as it was presented to Council on 18/7/2016 (EHR005-17 4/7/16) with a further amendment to confine two storey development in the R2 Low Density zone to the front 60% of allotment depth.”*

The General Manager has advised me as follows:

In response to Council’s resolution, Council received a letter dated 17 February 2017 (**held at Appendix A**) from the Department of Planning and Environment advising inter alia that “to assist in resolving this matter, the Department has met with the Office of Local Government and it has been agreed that the delegation for finalising the Draft DCP would be better undertaken by the Sydney South Planning Panel”. The letter further advises “that the Department has discussed the matter with the Panel Chair and he has agreed to this approach”.

Should Council accept the Department’s advice, consistent with normal practice it will be necessary for Council to fund an independent planning consultant, managed by the Department, to review the submissions and the Council report to assist the Panel determine the matter. Council would also need to formally delegate its function under Section 377 of the Local Government Act 1993 to the Sydney South Planning Panel and prepare a formal instrument of delegation.

The General Manager has requested I table this Mayoral Minute in order for Council to consider the Department’s advice and allow Council to progress the making of the Draft DCP without further delay. The General Manager has advised me that in his opinion, there is no material difference in the Draft DCP being made by the Secretary NSW Department Planning and Environment or the Sydney South Planning Panel and the Department’s advice is consistent with Council’s resolved position.

Min No: 232 Cont'd

MM009-17

I am well aware that the delay in making the Draft DCP is creating great uncertainty for the community and applicants for development. I note that Council unanimously resolved to proceed to have the Draft DCP made as quickly as possible and I believe Council should now act. Having regard to the Department's correspondence and the General Manager's advice, I recommend Council proceed as set out in my recommendation below.

RESOLVED: (The Mayor, Councillor Pesce/Councillor Provan)

THAT:

1. Pursuant to Section 377 of the Local Government Act 1993, Council delegates its function to the Sydney South Planning Panel to make Draft Sutherland Shire Development Control Plan 2015 as set out in MOT015-17, Council Minute No. 172.
2. The Director Shire Planning assist the Department of Planning and Environment to engage a suitably qualified planning professional to independently review Draft Sutherland Development Control Plan 2015 and accompanying reports to assist the Sydney South Planning Panel determine the making of the Plan.

**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, McLean, Nicholls, Plibersek, Provan, Riad, Scaysbrook, Simone and Steinwall.

**The decision was unanimous.**

Councillor Johns and Councillor Simpson returned to the Meeting (7.13 pm).

**Min No: 233**

**At this time in the Meeting, all open items not called for discussion were moved in bulk, as shown: "RESOLVED: (Councillor Provan/Councillor Simone\*)".**

**Min No: 234                      Suspension of Standing Orders**

RESOLVED: (The Mayor, Councillor Pesce/Councillor Johns)

That Standing Orders be suspended to consider PLN016-17, PLN017-17, PLN014-17 and PLN015-17 as the next items of business.

**Min No: 235****PLN016-17                    IHAP007-17 - Demolition of Existing Structures  
and Construction of a Multi Dwelling Housing  
Development Containing 16 Townhouses -  
Highview Crescent, Oyster Bay (DA16/1215)  
File Number: DA16/1215**

RESOLVED: (Councillor Nicholls/Councillor Croucher)

THAT:

1. Pursuant to the provisions of Section 80 of the Environmental Planning and Assessment Act, 1979, Development Application No. 16/1215 for demolition of existing structures and construction of a multi dwelling housing development containing 16 townhouses at Lot 274 & 275 DP 14716 (Nos. 24 & 26) Highview Crescent, Oyster Bay is determined by the refusal of development consent for the reasons outlined below:
  - a) Failure to comply with the objectives of the R2 Low Density Residential Zone.
2. The application is considered unacceptable pursuant to the provisions of s79C(1)(a)(i) and (iii) of the Environmental Planning and Assessment Act 1979 in that the proposed site planning, orientation and arrangement of buildings is not in keeping with the prevailing pattern of development in the area and will result in amenity impacts on a large number of neighbouring low density residential properties as well as having compromised internal amenity for future residents of the scheme. In this respect the development fails to satisfy the relevant provisions of Clause 6.17 of the Sutherland Shire Local Environmental Plan 2015 and Clause 5 in Chapter 4 of Council's draft Development Control Plan.
3. The application is considered unacceptable pursuant to the provisions of s79C(1)(a)(i) and (iii) of the Environmental Planning and Assessment Act 1979 in that the overall bulk and massing of the proposed buildings is not in keeping with the character of the area and will result in visual impacts on a large number of neighbouring low density residential properties. Access to the dwellings and around the site is poorly resolved and the street entry is flanked by two waste storage areas. In this respect the development fails to satisfy the relevant provisions of Clauses 6.16 and 6.17 of the Sutherland Shire Local Environmental Plan 2015 and Clauses 1 and 3 in Chapter 4 of Council's draft Development Control Plan.
4. The application is considered unacceptable pursuant to the provisions of s79C(1)(c) of the Environmental Planning and Assessment Act 1979 in that in light of the above, the applicant has not satisfactorily demonstrated that the site can sustain the number of dwellings proposed or that the site is suitable for the development.

Min No: 235 Cont'd

PLN016-17

5. The application is considered unacceptable pursuant to the provisions of s79C(1)(d) of the Environmental Planning and Assessment Act 1979 in that it is considered that in the circumstances of the case approval of the development would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.
6. The application is unacceptable under s79C(1) as the traffic and parking issues have not been satisfactorily addressed particularly given the narrow nature of Highview Crescent.

**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, Provan, Riad, Scaysbrook, Simone, Simpson and Steinwall.

**The decision was unanimous.**

**Min No: 236**

**PLN017-17**

**IHAP008-17 - Construction of a Dual Occupancy,  
Inground Swimming Pool and Strata Subdivision  
– Willarong Road, Caringbah South (DA16/0735)  
File Number: DA16/0735**

RESOLVED: (Councillor Collier/Councillor Johns)

That Development Application No. 16/0735 for construction of a dual occupancy, inground swimming pool and strata subdivision at Lot C DP 416082 (No. 403A) Willarong Road, Caringbah South be approved, subject to design changes (i) to (viii) recommended by IHAP for implementation before construction commences and in accordance with the conditions contained in Appendix "A" of the report, and amended as follows:

**2. Design Changes Required**

**A. Before Construction**

The following design changes must be implemented:

- i) The planter boxes either side of the front entrance stairway to the proposed new dwelling and adjacent to the driveway shall be reduced in height (approximately 1m high) to create reasonable "sight line", as defined in clause 3.2.4 of Australian Standard AS2890.1:2004, between pedestrians entering the driveway and motorists.



Min No: 236 Cont'd

PLN017-17

- ii) Reconstruct / modify the letter boxes on the southern side of the Right-Of-Carriageway upon No.401 Willarong Road to accommodate the required street number and letter box for the proposed new dwelling.
- iii) Removal of the clerestory window, on the roof over the kitchen.
- iv) Reduction of the height of the veranda roof on the western elevation of the building to comply with Council's height limit control.
- v) Privacy screens, or minimum sill heights of 1600mm above finished floor levels, to be provided on the northern boundary windows.
- vi) Clarification as to the location of the air-conditioning plants for each of the units.
- vii) All drawings should show AHD levels for existing and finished floor levels, ridge heights, eave heights, window sills and heads and door sills and heads.
- viii) Preparation of a dilapidation report in relation to the ROW.

**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, Provan, Riad, Scaysbrook, Simone, Simpson and Steinwall.

**The decision was unanimous.**

**Min No: 237**

**PLN014-17**

**Stage 3 Coastal Reforms Package**

**File Number: 2015/87240**

RESOLVED by the Shire Planning Committee on 6 February 2017:

That in accordance with the delegation granted by the Council to this Committee it is resolved that a Councillor Briefing be held on 13 February 2017 on the Stage 3 Coastal Reforms Package.

RESOLVED: (Councillor Boyd/Councillor Provan)

That Council endorse the submission to NSW Planning and Environment in relation to the exhibited Coastal Reforms as attached to this report as Appendix A subject to the following:

- (a) That Council write to the Minister and NSW Planning and Environment asking for stronger protections against Council being sued as a result of its assessment of coastal hazards.

Min No: 237 Cont'd  
PLN014-17

**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, McLean, Plibersek, Provan, Riad, Scaysbrook, Simone, Simpson and Steinwall.

**Against** the Resolution were Councillors Johns and Nicholls.

**Min No: 238**

**PLN015-17                      Draft Legislation Affecting Medium Density  
Housing  
File Number: 2016/257428**

RESOLVED by the Shire Planning Committee on 6 February 2017:

That in accordance with the delegation granted by the Council to this Committee it is resolved that a Councillor Briefing be held on 13 February 2017 on the Draft Legislation Affecting Medium Density Housing.

RESOLVED: (Councillor Scaysbrook/Councillor Plibersek)

That Council endorses the submission on the draft Medium Density Housing Legislation attached to this report as Appendix A, subject to the ability of Council to make a further submission in accordance with the report.

**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, Provan, Riad, Scaysbrook, Simone, Simpson and Steinwall.

**The decision was unanimous.**

### **Resumption of Standing Orders**

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

**Min No: 239**

**GOV012-17**                    **Cash Payments & Investments Report -  
November 2016  
File Number: 2016/250910**

RESOLVED: (Councillor Provan/Councillor Simone\*)

That the information concerning Bank Balances and Investments held as at 30 November 2016, be received and noted.

**Min No: 240**

**GOV013-17**                    **Cash Payments & Investments Report -  
December 2016  
File Number: 2016/250910**

RESOLVED: (Councillor Provan/Councillor Simone\*)

That the information concerning Bank Balances and Investments held as at 31 December 2016, be received and noted.

**Min No: 241**

**GOV014-17**                    **Quarterly Budget Review Statement for Period  
Ending December 2016  
File Number: 2016/239505**

RESOLVED: (Councillor Provan/Councillor Simone\*)

That the Second Quarterly Budget Review Statement and recommendations contained within be adopted and income and expenditure adjustments be voted.

**Min No: 242**

**GOV015-17**                    **Councillors Strategic Planning Workshop  
File Number: 2016/252460**

RESOLVED: (Councillor Provan/Councillor Simone\*)

THAT:

1. The outcomes from the 2016 Strategic Planning Workshop be endorsed and incorporated in the preparation of the Community Strategic Plan and various delivery strategies under the Integrated Planning and Reporting Framework.
2. Councillors be provided a schedule of activities in the preparation of the Community Strategic Plan and be continually updated on the outcome of strategies.

**Min No: 243**

**SER011-17                    Dedication of 150 Old Illawarra Road, Barden  
Ridge as Public Reserve  
File Number: 2015/214031**

RESOLVED: (Councillor Provan/Councillor Simone\*)

THAT:

1. Lot 102 DP1028645 at 150 Old Illawarra Road, Barden Ridge (known as Barden Ridge Park) be dedicated as public reserve.
2. Subject to point 1, 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.
3. A notice be published in the government gazette of the dedication of Lot 102 DP1028645 at 150 Old Illawarra Road, Barden Ridge.

**Min No: 244**

**Procedural Motion  
To Consider SER012-17 in Committee of the Whole**

MOTION: (Councillor Johns/The Mayor, Councillor Pesce)

That SER012-17 be considered in Committee of the Whole.

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

**Min No: 245**

**SER013-17                    Transfer of Land to Council at Grays Point,  
Loftus and Heathcote  
File Number: 2015/4761**

RESOLVED: (Councillor Johns/Councillor Boyd)

THAT:

1. The three playing fields located at Loftus, Grays Point and Heathcote be compulsorily acquired by agreement under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991.
2. Correspondence be forwarded to the Minister for the Environment, the Hon Mark Speakman MP seeking the Minister's consent to the transfer of the lands by compulsory acquisition by agreement under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991.

Min No: 245 Cont'd

SER013-17

3. Council as the acquiring authority agrees to meet survey, transfer and any other associated costs.
4. 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.
5. The Minister for the Environment, the Hon Mark Speakman MP and staff be thanked on behalf of the community for the allocation of these sporting facilities.

**Min No: 246**

**SER014-17**

**Proposed Sale of Land at 68R Carina Road, Oyster Bay**

**File Number: 2016/245843**

RESOLVED: (Councillor Provan/Councillor Simone\*)

THAT:

1. A selective expression of interest process to adjoining neighbours be undertaken for the sale of Lot 352 DP561753 located at 68R Carina Road, Oyster Bay.
2. A contract for sale be executed on terms and conditions deemed satisfactory by the General Manager.
3. Subject to point 1, 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.

**Min No: 247**

**SER015-17**

**Proposed Telecommunication Tower - Dwyer**

**Reserve, Caringbah South**

**File Number: 2016/254572**

RESOLVED: (Councillor Provan/Councillor Simone\*)

THAT:

1. Council's consent, being the owner of the land located on Dwyer Reserve being Council land located at 14 Oleander Parade, Caringbah South (Lot 32 DP 228640) be provided to allow a development application to be lodged by Optus Mobile Pty Ltd for the construction of a telecommunication tower.

Min No: 247 Cont'd

SER015-17

2. Should the Development Application be approved, the Compensation/Access Deed, or Agreement, or any other relevant documentation formalising the occupation by Optus Mobile Pty Ltd to locate telecommunications equipment at 14 Oleander Parade, Caringbah South (Lot 32 DP 228640) be approved at terms and conditions 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.

**Min No: 248**

**SER016-17**

**Proposed Sale of 5 Evelyn Street North, Sylvania**

**File Number: 2015/4623**

MOTION: (Councillor Plibersek/Councillor Forshaw)

THAT:

1. The sale of 5 Evelyn Street North, Sylvania not proceed.
2. The General Manager liaise with local TAFEs and trade training institutions to see if they are interested in restoring the building.

AMENDMENT: (Councillor Croucher/Councillor Provan)

THAT:

1. A public auction process be undertaken for the sale of Lot B DP 379630 located at 5 Evelyn Street North, Sylvania and if the auction reserve price is reached, a contract for sale at terms and conditions to the satisfaction of the General Manager be entered into.
2. Subject to point 1, 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.

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 Collier, Croucher, Forshaw, McLean, Provan, Simone and Simpson.

**Against** the Amendment were Councillors Boyd, Johns, Nicholls, Plibersek, Riad, Scaysbrook and Steinwall.

Min No: 248 Cont'd

SER016-17

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 Collier, Croucher, Forshaw, McLean, Provan, Simone and Simpson.

**Against** the Resolution were Councillors Boyd, Johns, Nicholls, Plibersek, Riad, Scaysbrook and Steinwall.

The Mayor, Councillor Pesce, vacated the Chair and left the Chamber (8.20 pm).

The Deputy Mayor, Councillor Scaysbrook, assumed the Chair.

**Min No: 249**

**SER017-17**

**Early Opening Cafes in Cronulla – Proposed**

**Trial of Extended Trading Hours**

**File Number: 2017/265381**

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

MOTION: (Councillor Plibersek/Councillor Steinwall)

THAT:

1. A six month trial be facilitated enabling cafes within the Cronulla centre to open at 5:30am with set up of outdoor furniture from 6:30am, in consultation with the Cronulla Chamber of Commerce and the Economic Development and Tourism sub-committee, subject to the conditions referred to in this report to encourage economic and community activity.
2. No music or amplified sound be played outside until 7:00am.
3. The conditions of consent which restrict early morning trade and related operational conditions for all cafes in Cronulla central after 5:30am not be enforced for the duration of the trial, taking significant impacts on residential amenity into account.

Min No: 249 Cont'd

SER017-17

4. A review of the trial be conducted following its completion and consideration be given to a review of Council's draft Development Control Plan to allow cafes to apply for permanent earlier opening hours.
5. A report be provided on the extension of the proposed trial to include major centres within the Sutherland Shire.

AMENDMENT: (Councillor Simone/Councillor Provan)

THAT:

1. A six month trial be facilitated enabling cafes within the Cronulla centre, to open at 5:30am with outdoor seating available from 6:00am, in consultation with the Cronulla Chamber of Commerce and the Economic Development and Tourism sub-committee, subject to the conditions referred to in this report to encourage economic and community activity.
2. Music allowed to be played indoors from 6:00am.
3. The conditions of consent which restrict early morning trade and related operational conditions for all cafes in Cronulla central after 5:30am not be enforced for the duration of the trial, taking significant impacts on residential amenity into account.
4. A review of the trial be conducted following its completion and consideration be given to a review of Council's draft Development Control Plan to allow cafes to apply for permanent earlier opening hours.
5. A report be provided on the extension the proposed trial to include major centres within the Sutherland Shire.

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

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

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

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



**Min No: 250      Procedural Motion**  
**To Re-Count the Division on the Amendment**

MOTION: (Councillor Simpson/Councillor Scaysbrook)

That the Division on the Amendment of Councillor Simone and Councillor Provan be re-counted.

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

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

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

**Against** the Procedural Motion were Councillors Johns, McLean, Nicholls, Provan, Riad and Simone.

**Min No: 249 Cont'd**  
**SER017-17**

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

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

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

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

FURTHER AMENDMENT: (Councillor Johns/Councillor Simone)

THAT:

1. A six month trial be facilitated enabling cafes within the Cronulla centre; Gymea Bay Road between President Avenue and Kingsway; and Kirrawee - Oak Road between President Avenue and Flora Street to open at 5:30am with set up of outdoor furniture from 6:30am, in consultation with the Cronulla Chamber of Commerce and the Economic Development and Tourism sub-committee, subject to the conditions referred to in this report to encourage economic and community activity.
2. No music or amplified sound be played outside before 7:00am.
3. The conditions of consent which restrict early morning trade and related operational conditions for all cafes within the trial area after 5:30am not be enforced for the duration of the trial, taking significant impacts on residential amenity into account.

Min No: 249 Cont'd  
SER017-17

4. A review of the trial be conducted following its completion and consideration be given to a review of Council's draft Development Control Plan to allow cafes to apply for permanent earlier opening hours.
5. A report be provided on the extension of the proposed trial to include other major centres within the Sutherland Shire.

**Min No: 251      Procedural Motion**  
**To Put the Further Amendment**

MOTION: (Councillor Johns)

That the Further Amendment be put to the Meeting.

The Procedural Motion on being put to the Meeting was declared lost.

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

**In Favour** of the Procedural Motion were Councillors Croucher, Johns, Forshaw, Nicholls, Riad, Simone and Simpson.

**Against** the Procedural Motion were Councillors Boyd, Collier, McLean, Plibersek, Provan, Scaysbrook and Steinwall.

Councillor Scaysbrook used his casting vote against the Procedural Motion.

**Min No: 249 Cont'd**  
**SER017-17**

Debate continued on the matter.

The Further Amendment then became the Amendment which on being put to the Meeting was carried to become the Motion.

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

The Mayor, Councillor Pesce, returned to the Meeting and resumed the Chair (9.07 pm).

**PLN014-17**            **This matter was considered earlier in the Meeting  
(see Minute No. 237).**

**PLN015-17**            **This matter was considered earlier in the Meeting  
(see Minute No. 238).**

**PLN016-17**            **This matter was considered earlier in the Meeting  
(see Minute No. 235).**

**PLN017-17**            **This matter was considered earlier in the Meeting  
(see Minute No. 236).**

**Min No: 252**

**INF010-17**            **Update: Roger Summers Reserve / Brighton  
Street, Bundeena Stages 2 & 4  
File Number: 2015/10720**

RESOLVED: (Councillor Provan/Councillor Simone\*)

That the report "Update: Roger Summers Reserve / Brighton Street, Bundeena Stages 2 & 4 be received and noted.

**Min No: 253**

**COR040-17**            **Report and Minutes of the Meeting of the Sutherland  
Traffic and Traffic Safety Committee held on Friday,  
3 February 2017  
File Number: 2015/2036**

RESOLVED: (Councillor Provan/Councillor Simone\*)

That the decisions contained in the Minutes of the Sutherland Traffic and Traffic Safety Committee Meeting held on 3 February 2017 be noted.

Councillor Forshaw left the Meeting during discussion of the following item.

**Min No: 254**

**MOT020-17**                    **Minimum Lot Sizes - Low Density  
Neighbourhoods  
File Number: 2015/215393**

RESOLVED: (Councillor Plibersek/Councillor Johns)

That as a matter of urgency, a briefing be provided to Councillors exploring ways in which Sutherland Shire Local Environmental Plan 2015 can be amended to re-introduce minimum lot sizes for multi-unit dwellings and dual occupancy in the low density neighbourhoods of Sutherland Shire so that any infill housing is compatible with its immediate local context.

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

**The decision was unanimous.**

Councillor Forshaw returned to the Meeting at this stage (9.11 pm).

**Min No: 255**

**MOT021-17**                    **Amendments to LEP and DCP to Improve  
Development Outcomes  
File Number: 2015/215393, 2015/210249**

MOTION: (Councillor Plibersek/Councillor Boyd)

That Councillors receive a briefing on ways that both the LEP and DCP could be amended to improve development outcomes and to address community concerns in relation to the apparent density of recent development in the R2 Low Density, the E3 Environmental Management and the E4 Environmental Living Zones of Sutherland Shire.

AMENDMENT: (Councillor Johns/Councillor Riad)

That Councillors receive a briefing on ways that both the Local Environmental Plan and Development Control Plan could be amended to improve development outcomes.

**Point of Order**

Councillor Plibersek raised a Point of Order that Councillor Johns had made unfounded allegations against his motivation, none of which he accepts or has, and asked him to withdraw those unfounded allegations.

The Mayor, Councillor Pesce, overruled the Point of Order.

**Min No: 255 Cont'd****MOT021-17**

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

**Against** the Amendment were Councillors Boyd, Collier, Forshaw, McLean, Plibersek, Scaysbrook 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 Croucher, Johns, Nicholls, Provan, Riad, Simone and Simpson.

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

**Min No: 256****MOT022-17****Playground Equipment at Alcheringa Reserve, Miranda****File Number: 2017/263445**

RESOLVED: (Councillor Johns/Councillor Simone)

THAT:

1. Council receives a report on the circumstances resulting in the closure and removal of playground equipment at Alcheringa Reserve, Miranda.
2. The report provide options for the replacement, repair and/or alternative embellishment measures for the Reserve consistent with Council's Open Space Strategy.

**Min No: 257****MOT023-17****Quarterly Report on Trees****File Number: 2015/92623**

RESOLVED: (Councillor Plibersek/Councillor Steinwall)

That Council receives a report each quarter in 2017 with information readily available on:

1. The number of trees removed as a consequence of:
  - i. development consents;
  - ii. permits to remove trees on public land;
  - iii. permits to remove trees on private land; and
  - iv. Council's proactive tree removal on health and safety grounds.
2. The number of trees planted as an outcome of:
  - i. conditions of development consent requiring replacement planting; and
  - ii. the Green Streets Program.
3. The number of replanted trees that are inspected to ensure their survival.
4. The report include the previous four years' historical figures where available.

**Min No: 258**

**MOT024-17**

**Removal of Trees**

**File Number: 2015/90422**

MOTION: (Councillor Johns/Councillor Simone)

That Council amend its current requirements so that a landowner will be able to remove a tree on their land without the need to obtain Council's consent except trees that are:

- Indigenous to the Sutherland Shire; or
- On land comprising a heritage item listed within SSLEP2015; or
- Within a locally significant, endangered or critically engaged ecological community;

and subject to the landowner replacing each tree removed with not less than two trees on the same property from a list of tree species identified by Council.

AMENDMENT: (Councillor McLean/Councillor Collier)

THAT:

1. Council receive an independent report, within two months, on a proposal to allow landowners to remove a tree on their property without the need to obtain Council's consent, subject to the landowner replacing each tree removed with not less than two trees on the same property chosen from a list of species identified by Council.
2. The report include procedures for the implementation and management of the resulting changes to Council Policy should Council formally adopt the proposal and any exceptions to it.

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, Simpson and Steinwall.

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

FURTHER AMENDMENT: (Councillor Johns/Councillor Nicholls)

THAT:

1. Council receive an independent report within two months, on a proposal to allow landowners to remove a tree on their property without the need to obtain Council's consent, subject to the landowner replacing each tree removed with not less than two trees on the same property chosen from a list of species identified by Council.

Min No: 258 Cont'd

MOT024-17

2. The report include procedures for the implementation and management of the resulting changes to Council Policy should Council formally adopt the proposal and any exceptions to it.
3. Until the report is provided, every tree removal request refused by officers be formally reported to be endorsed by Council.

The Further Amendment then became the Amendment which on being put to the Meeting was declared lost.

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

**In Favour** of the Further Amendment were the Mayor, Councillor Pesce, together with Councillors Croucher, Johns, Nicholls, Provan, Riad and Simone.

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

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

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

**Min No: 259            Extension of Meeting**

RESOLVED: (Councillor Simpson)

That the Meeting be extended to 11.00 pm.



**Min No: 260****MOT025-17                    Alcheringa Reserve Playground Equipment  
File Number: 2017/263445**

RESOLVED: (Councillor Collier/Councillor Boyd)

That with a view to retaining and reopening the Children's Playground at Alcheringa Reserve, Miranda, as soon as practicable, Council:

1.     Receives a Report at the March 20, 2017 Ordinary Meeting which provides options for:
  - (a)   the urgent repair and/or replacement of playground equipment as necessary;
  - (b)   the removal of all graffiti; and
  - (c)   the installation of appropriate lighting at Alcheringa Reserve to further increase the existing passive surveillance of the Playground and nearby Scout Hall.
  
2.     Consults the local community as to any future proposals for the Alcheringa Reserve Playground, including improvements and equipment upgrades.
  
3.     Seeks support from the Member for Cronulla, the Hon Mark Speakman SC MP for assistance with funding of future and ongoing improvements to the Alcheringa Reserve Playground under NSW State Government programs.

Councillor Johns left the Meeting prior to the following item.

**MOT026-17                    Draft Development Control Plan 2015  
File Number: 2015/210249**

This matter was not considered.

Councillor Johns returned to the Meeting at this stage.

**Min No: 261                    Rescission Motion****RES001-17                    MOT017-17 - Planning Proposal at 10-14  
Merton Street, Sutherland  
File Number: 2015/87412**

Formal Notice of the following Motion was given by Councillors Scaysbrook, Forshaw and Steinwall.

Min No: 261 Cont'd

RES001-17

MOTION: (Councillor Scaysbrook/Councillor Simpson)

That the following Report No. MOT017-17, Resolution of Council, Minute No. 213, at its Meeting on 19/12/16, be rescinded:

THAT:

1. Council acknowledges to the Panel that the area does have opportunities for increased housing capacity.
2. Based on no formal report being before Council, that all historical reports presented to Council be made available to the Panel should they request them, including a copy of the Independent Review of the Draft Sutherland Shire Local Environmental Plan 2013.

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

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

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

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

### **Petition**

**Min No: 262      Playground Equipment at Alcheringa Reserve, Miranda**  
**File Number: 2017/263445**

Councillor Collier tabled a petition requesting the repair and/or replacement of the playground equipment located at Alcheringa Reserve, Miranda (rather than just demolishing it).

The Meeting closed at 11.00 pm.

**Explanatory Note:** Any matters not considered at the Meeting will be considered at the next Council Meeting - 20 March 2017 (SER012-17).