

Council



Minutes of the Council Meeting of Sutherland Shire Council, held in the Administration Centre, Eton Street, Sutherland on Monday, 14 December 2015 commencing at 6.31 pm

PRESENT: The Mayor, Councillor Pesce, together with Councillor Awada, Councillor Blight, Councillor Cook, Councillor Croucher, Councillor Johns, Councillor Provan, Councillor Riad, Councillor Scaysbrook, Councillor Schreiber, Councillor Simpson, Councillor Steinwall, Councillor Towell and Councillor Walton.

Staff in attendance were the General Manager, Director Corporate Support, Director Shire Services, Director Shire Infrastructure, Director Shire Planning, Manager Strategic Planning (Mark Carlon), Manager Communication and Events (Kathryn Lord), Property Services Manager (Lani Richardson), General Counsel (Elizabeth Espinosa), Manager Governance and Customer Service (Todd Hopwood), Governance Manager (Samantha Charlton) and Supervisor Governance Support (Rachael Zhura).

Opening of the Meeting with Prayer

The Meeting was opened with prayer by Reverend Tom Hargraves of St Johns Anglican Church, Sutherland.

Acknowledgement of Country

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

Disclosures of Interest

File Number: 2015/14239

Councillor Awada declared a pecuniary interest in the following matter:

CCL029-16 Development Application No. 15/0161,

Called Up to the Independent Hearing
and Assessment Panel by a Councillor
File Number: DA15/0161

advising that as everyone knows, he owns and operates childcare centres and if this item is called up he'll leave the Chambers.

Councillor Awada declared a pecuniary interest in the following matter:

EHR032-16 DCP Re-exhibition Submissions Report
File Number: 2015/226307

advising that he'll do the same he guesses, although it's confusing, they're not sure of this, he'll declare the same in relation to the DCP, he owns several properties around the Shire that might be impacted by the DCP and if the DCP, based on the General Manager's advice, if it is deferred we can stay and discuss the deferral of the DCP, but if the DCP was to be discussed, he will then declare a pecuniary interest and he'll actually leave the Chambers.

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

FAS029-16 Clothing Appeal Bins on Council Land
File Number: 2015/37206

advising that if it's called up she'll leave the Chambers because she has done some volunteer work for Enough is Enough.

Councillor Cook declared a pecuniary interest in the following matter:

EHR032-16 DCP Re-exhibition Submissions Report
File Number: 2015/226307

advising that she'll follow suit on that same one and declare, well because it's new legislation is she declaring significant interest with an investment? She'll declare a property that she doesn't live in, it's a Woollooware Bay apartment in Landings 207 and if that is affected in any way, if the DCP is

discussed she will leave the Chambers.

Councillor Croucher declared a not significant non-pecuniary interest in the following matter:

EHR032-16 DCP Re-exhibition Submissions Report
File Number: 2015/226307

advising that as Councillor Johns said, it's not clear if we'll be dealing with that tonight but if we do he'd like to declare a not significant non-pecuniary interest as apart from where he lives, he has an investment property in Corella Road, Kirrawee which is a set of villas and he doesn't believe that there are any changes in the DCP that will have an impact on that in the short term.

Councillor Croucher advised that the conflict is not significant as that site would not be developed and nothing will change there as far as he knows.

Councillor Johns declared a pecuniary interest in the following matter:

EHR032-16 DCP Re-exhibition Submissions Report
File Number: 2015/226307

advising that he's declaring that he doesn't know if he has a pecuniary interest due to the fact that the legislation has recently changed and indicates that he'll be moving deferral of that item prior to discussion but he identifies that he has properties in Grays Point, which is a personal home, and he also has a factory in Taren Point which is the location of his business, but he's still not aware of whether, under the new Act, he has a pecuniary interest or a pecuniary interest with an exemption, but indicates that he'll be moving deferral on that.

Councillor Johns declared a pecuniary interest in the following matter:

EHR033-16 Making of Draft Sutherland Shire Local
Environmental Plan 2015 - Amendment
No. 1 (Complying Development in E4)
File Number: 2015/65950

advising that this deals specifically with E4 zones, his house is located in an environmentally sensitive zone, therefore he does have a pecuniary interest and it hasn't been drawn out tonight but if it's re-committed he'll leave the Chamber and won't be voting on the matter.

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

FAS025-16 Gunnamatta Pavilion Refurbishment and
Lease - Public Consultation Review
File Number: 2015/217174

advising that his accountant is the tenderer so he'll pass this on to the Deputy Mayor to come up and Chair.

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

EHR032-16 DCP Re-exhibition Submissions Report
File Number: 2015/226307

advising that he will actually do exactly the same thing, as he owns quite a lot of properties within the Shire and until they're clear, if it is discussed and it goes to the floor he will definitely be walking out as well.

Councillor Steinwall declared a pecuniary interest in the following matter:

EHR032-16 DCP Re-exhibition Submissions Report
File Number: 2015/226307

advising that she has property in Engadine and she's not sure what the legislation is or where they stand at the moment so could she declare that as well.

Councillor Steinwall declared a not significant non-pecuniary interest in the following matter:

EHR034-16 Remaining Minor Amendments - Sutherland Shire

Local Environmental Plan 2015 - Amendment 4

File Number: 2015/220811

advising that she'll leave the room if it's called as the school she works at, Bosco College, and John Paul Village are run by the Salesian Order.

Councillor Steinwall did not advise why the conflict is not significant.

Special Disclosures of Pecuniary Interests

In relation to the following items, the Mayor, Councillor Pesce, together with Councillors Awada, Blight, Cook, Croucher, Johns, Provan, Riad, Scaysbrook, Schreiber, Simpson, Steinwall, Towell and Walton had previously made a special disclosure of pecuniary interest under sections 451 (4) and 451 (5) of the *Local Government Act 1993* advising that they, or persons they are associated with or related to, own properties within the Shire.

Each special disclosure of pecuniary interest has been made in the form set out in Schedule 3A of the *Local Government (General) Regulation 2005* and these forms have been included in Council's public Pecuniary Interest Register.

It is noted that Councillors who make a special disclosure of pecuniary interest under sections 451 (4) and 451 (5) of the *Local Government Act 1993* are not required to leave the meeting whilst the matter is being considered or discussed or voting on any question in relation to the matters.

EHR032-16 DCP Re-exhibition Submissions Report
File Number: 2015/226307

EHR033-16 Making of Draft Sutherland Shire Local
Environmental Plan 2015 - Amendment
No. 1 (Complying Development in E4)
File Number: 2015/65950

EHR034-16 Remaining Minor Amendments - Sutherland Shire
Local Environmental Plan 2015 - Amendment 4
File Number: 2015/220811

EHR035-16 Heritage Review Amendments - Sutherland Shire
 Local Environmental Plan 2015 - Housekeeping
 Amendment 4
 File Number: 2015/222368

EHR036-16 Review of Small Shops Currently Residentially Zoned
 File Number: 2015/220811

Min No: 330 APOLOGY:

RESOLVED: (Councillor Schreiber/Councillor Johns)

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

Min No: 331

**CCL024-16 Confirmation of Minutes of Council Meeting
 held on Monday 16 November 2015
 (Minutes Numbered 302 to 329 inclusive)**

RESOLVED: (Councillor Riad/Councillor Steinwall)

That the Minutes of the Council Meeting held on 16 November 2015, being Minutes Numbered 302 to 329 inclusive, be and are hereby confirmed as a correct record.

**Min No: 332 Mayoral Minute No. 15/15-16
 Promising Para-Athlete – Sarah Walsh
 File Number: 2015/218217**

I was pleased to be informed that Sarah Walsh, a student at St John Bosco College, Engadine recently competed in the 2015 IPC Athletics World Championships in Doha, Qatar as part of an Australian team of para-athletes.

Sarah was born with a condition called Fibular Hemimelia, which means she had no fibula and a small foot. Her parents made the decision to have her foot amputated when Sarah was 18 months old. Sarah was fitted with a blade when she was 10 years old.

Sarah's interest in athletics began when she competed in the zone athletics. Today, at 17 years of age, Sarah has competed in a number of events, and has won numerous titles in the 100m sprint and long jump. She won some of the titles when she was a member of the Helensburgh and Districts Little Athletics Club. Sarah is currently a member of the Sutherland District Athletics Club, and for the past three consecutive seasons, Sarah has won the Sutherland District Athletics Club Lyn Jacenko Long Jump Award.

Sarah has also competed at the Glasgow international athletics competition held in Scotland in 2014. More recently, Sarah was placed first in the 100m sprint at the NSW All Schools Championships held at Sydney Olympic Park Athletics Centre, and she is the current Oceanian Record holder in the T44 long jump class.

As a result of her achievements, dedication and outstanding efforts, Sarah is now in training to enable her to qualify to compete and represent Australia at the 2016 Paralympics to be held in Brazil.

I am pleased to recommend to the Council that Sarah's outstanding efforts and impressive achievements in the 100m and 200m sprints, and long jump be acknowledged and we wish her all the very best in her future endeavours to compete in athletics in Australia and at the Paralympics.

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

That Council congratulate Sarah Walsh on her achievements in long jump and sprints, and wish her all the very best in her endeavours to compete in athletics in Australia and at the Paralympics.

Min No: 333

Mayoral Minute No. 16/15-16

Cronulla Rally 2015 – The Big Non-Event

File Number: 2015/218217

As Councillors are aware, several weeks ago a small number of individuals with misguided minority views on the values of our community sought to organise an event coinciding with the tenth anniversary of the shameful civil unrest that occurred in Cronulla over a three day period in 2005. These individuals widely communicated on social media causing significant anxiety and offending most fair minded residents and businesses in our Shire. Those comments on social media brought swift threats of retaliatory action from other individuals with opposing but equally misguided minority views.

It was clear to this Council that unless we took leadership in the form of immediate and firm action, Cronulla was again at risk of being the unwelcome staging ground of several opposing groups wishing to express extremist views on multiculturalism and racial vilification. Views which are not shared by the overwhelming majority of our community.

Council called out to the Federal Government via The Hon Scott Morrison MP, Member for Cook, the State Government via The Hon Mark Speakman MP, Member for Cronulla and the NSW Police Commissioner for assistance to overcome the threats of civil disturbance and reputational damage to Cronulla and the Sutherland Shire. Concurrently, Council commenced action in the Human Rights Commission and the Federal Court of Australia seeking to prevent those purporting to stage an event from damaging the cohesive harmony of our community.

Our call was answered and I am pleased to advise we have been successful on every front. Last Friday the Police Commissioner successfully persuaded the NSW Supreme Court to prohibit the proposed rally. Shortly afterwards, Council and Dr Jamal Rifi, a community leader, successfully obtained undertakings in the Federal Court of Australia that the event would not proceed.

On Saturday I had the opportunity to witness Police Superintendent Michael O'Toole expertly command an operation involving over 350 police, other emergency services and Council officers. Superintendent O'Toole and his operation ensured that the overwhelming majority of our community was in no way affected by the small number of people who travelled to Cronulla to disturb the peace. I am proud that the success of Saturday's operation was in no small way assisted by the extensive communication, planning and ground work undertaken by a number of Council officers in the days and weeks leading up to and on the day itself.

Intense media interest over the past few weeks helped convey the message that our community will not tolerate hate speech, anti social behaviour or violence and that we are not interested in re-visiting the events of 11 December 2005. It also helped us demonstrate in the most visible way that it was business as usual for Cronulla and that we welcome everyone to come and enjoy everything it has to offer.

Finally and most importantly, I wish to express my sincere thanks to the community of the Sutherland Shire for supporting the Council in sending a strong message to those wishing to use Cronulla as a stage for expressing extremist views of any persuasion. The message was clear – we are a peaceful, tolerant and diverse community that embraces the best of our nation's traditions and pride. The community showed that we in no way reflect the shameful events of ten years ago. Last Saturday we were able to forever more wipe that stain from our community.

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

THAT:

1. Council write to the Minister for Emergency Services and the NSW Police Commissioner expressing Council's sincere thanks to Superintendent Michael O'Toole and all emergency services officers involved in Saturday's operation.
2. Council request the General Manager appropriately express Council's appreciation to all staff involved in the lead up to and on the day of the operation.
3. Council prominently posts this Mayoral Minute on its social media site as an expression of the Sutherland Shire community's embracement of tolerance, diversity and the best of national pride, and the rejection of extremist views of any persuasion.

Min No: 334

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

Min No: 335

**FAS019-16 Cash Payments & Investments Report -
October 2015
File Number: 2015/219715**

RESOLVED: (Councillor Johns/Councillor Provan*)

That the information concerning Bank Balances and Investments held as at 31 October 2015, be received and noted.

Min No: 336

**FAS020-16 Naming of Crown Reserve Trust at 1R Brighton
Street, Bundeena known as Berenice Forster Park
File Number: 2015/37030**

RESOLVED: (Councillor Johns/Councillor Provan*)

THAT:

1. The Crown Land located at 1R Brighton Street, Bundeena, described as Lot 7007 DP 93566 be assigned "Berenice Forster Park Reserve Trust" as an appropriate reserve trust name.
2. The Crown Lands Division of the NSW Trade and Investment be advised of Council nominated reserve trust name for gazettal.

Min No: 337

FAS021-16 Council Contingency Funding
File Number: 2015/212597

RESOLVED: (Councillor Johns/Councillor Provan*)
 That the report on Council contingency funding be received and noted.

Min No: 338

FAS022-16 Scouts Australia Request to Waive DA Fee
File Number: 2015/215326

RESOLVED: (Councillor Johns/Councillor Provan*)
 THAT:

1. Council waives the development assessment fee as requested by Scouts Australia.
2. Council prepares a policy on requests to waive development application fees from not for profit groups.

Min No: 339

FAS023-16 Proposed Renewal of Lease Ground Floor and
Part of Level 2, 36 Eton Street, Sutherland
File Number: 2015/37148

RESOLVED: (Councillor Johns/Councillor Provan*)
 THAT:

1. The Lease of the Ground Floor and Part of Level 2, 36 Eton Street, Sutherland to Commonwealth of Australia represented by the Department of Human Services for four years with two x three year options at terms and conditions to the satisfaction of the General Manager

be approved.

2. Pursuant to clause 400 of the Local Government Regulation 2005, the following documents be executed under Common Seal of the Council of the Sutherland Shire:

Type of Document: Lease Agreement - Ground Floor and Part of Level 2, 36 Eton Street, Sutherland

Other Party: Commonwealth of Australia represented by the Department of Human Services

Min No: 340

**FAS024-16 Proposed Acquisition of Open Space Land at
2 Mawarra Avenue, Miranda
File Number: 2015/4729**

RESOLVED: (Councillor Johns/Councillor Provan*)

THAT:

1. The acquisition of part of Lot 15 in Deposited Plan 27544 located at 2 Mawarra Avenue, Miranda for open space purposes at terms and conditions to the satisfaction of the General Manager, be approved.
2. Pursuant to clause 400 of the Local Government Regulation 2005, the following documents be executed under Common Seal of the Council of the Sutherland Shire:

Type of Document: Contract for Sale, Transfer Document and all associated documentation to effect the acquisition of Lot 15 in Deposited Plan 27544 located at 2 Mawarra Avenue, Miranda

Other Party: The registered proprietor of Lot 15 in Deposited Plan 27544

The Mayor, Councillor Pesce, vacated the Chair and left the Chamber (7.09 pm).

The Deputy Mayor, Councillor Awada, assumed the Chair.

Min No: 341

FAS025-16 Gunnamatta Pavilion Refurbishment and

Lease - Public Consultation Review

File Number: 2015/217174

*** 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 Steinwall/Councillor Scaysbrook)

THAT:

1. The proposed 20 year lease to Magnetto Pty Ltd for the premises located at 41A Nicholson Parade, Cronulla being Part of Lot 282 in DP 752064 being part of heritage listed Gunnamatta Pavilion, be granted on terms and conditions to the satisfaction of the General Manager.
2. The 20 year lease be offered with a six (6) month rent free period, then a reduced annual rental until the actual cost of the capital investment (excluding fit out) by the tenant is offset.
3. The Minister's consent be obtained for the proposed 20 year lease to Magnetto Pty Ltd.
4. Pursuant to Clause 400 of the Local Government (General) Regulation 2005, the lease be executed under Common Seal of the Council of Sutherland Shire:

Type of Document: Lease and all other documentation to effect the lease

Property: 41A Nicholson Parade, Cronulla (Part Lot 282 in DP 752064)

Other Party: Magnetto Pty Ltd ACN 106 704 296

5. That Council continue to consult with all users of Gunnamatta Pavilion and accommodate all community groups within the Pavilion or in nearby Council facilities.
6. That Council retain control of the multipurpose Hall for all booking purposes.

AMENDMENT: (Councillor Schreiber/Councillor Provan)

THAT:

1. The proposed 20 year lease to Magnetto Pty Ltd for the premises located at 41A Nicholson Parade, Cronulla being Part of Lot 282 in DP 752064 being part of heritage listed Gunnamatta Pavilion, be granted on terms and conditions to the satisfaction of the General Manager.
2. The 20 year lease be offered with a six (6) month rent free period, then a reduced annual rental until the actual cost of the capital investment (excluding fit out) by the tenant is offset.

3. The Minister's consent be obtained for the proposed 20 year lease to Magnetto Pty Ltd.
4. Pursuant to Clause 400 of the Local Government (General) Regulation 2005, the lease be executed under Common Seal of the Council of Sutherland Shire:

Type of Document: Lease and all other documentation to effect the lease
 Property: 41A Nicholson Parade, Cronulla (Part Lot 282 in DP 752064)
 Other Party: Magnetto Pty Ltd ACN 106 704 296

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 Awada, Cook, Croucher, Johns, Provan, Riad, Schreiber, Simpson and Walton.

Against the Amendment were Councillors Blight, Scaysbrook, Steinwall and Towell.

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

The Mayor, Councillor Pesce, returned to the Meeting and resumed the Chair (7.25 pm).

Min No: 342

FAS026-16

Policy Framework

File Number: 2015/223211

RESOLVED: (Councillor Johns/Councillor Provan*)

THAT:

1. The Policy Framework attached to the report be endorsed.
2. The list of Policies identified in Appendix "B" be confirmed as Council policies and be placed on the Council Policy Register.

3. Any previously adopted policies of council listed in Appendix "C" be rescinded and removed from the Policy Register.
4. A full review of the content of policies confirmed under the new framework be undertaken.
5. The Urban Tree and Bushland Policy be updated to include the provisions of the Tree Vandalism Policy.

Min No: 343

**FAS027-16 Grant of Proposed Drainage Easement/s for
Discharge of Stormwater into Council Drainage
System at 7 Trevalsa Place Burraneer
File Number: 2015/223866**

RESOLVED: (Councillor Johns/Councillor Provan*)

THAT:

1. A Drainage Easement for Discharge of Stormwater be granted over Council land, being Lot 7 DP 245527 known as 7R Sorrento Place Burraneer at terms and conditions to the satisfaction of the General Manager.
2. Pursuant to clause 400 of the Local Government (General) Regulation 2005, the following documents be executed under the Common Seal of the Council of Sutherland Shire:

Type of Document: Section 88B Instrument of Transfer Granting Easement, Easement Plan and all other documentation required to effect the creation of a Drainage Easement for Discharge of Stormwater granted over Land being Lot 7 DP 2455277 known as 7R Sorrento Place Burraneer.

Other Party: The registered proprietor/s of 7 Trevalsa Place, Burraneer

Min No: 344

**FAS028-16 Proposed Closure and Sale of Fowler Road, Illawong
and Surrender of Illawong Community Hall
File Number: 2015/4556**

RESOLVED: (Councillor Riad/Councillor Simpson)

THAT:

1. The closure of part of Fowler Road, Illawong adjoining the Illawong Village Shopping Centre be supported and the appropriate application to close a public road be lodged with NSW Department of Primary Industries.
2. The surrender of the Illawong Community Centre lease to the Illawong Village Shopping Centre be supported.
3. Council authorises the sale of the section of road which adjoins Lot 10 DP 1107327 being the Illawong Village Shopping Centre known as "the road" and the surrender of the Illawong Community Centre lease to the Illawong Village Shopping Centre and delegates to the General Manager to negotiate the value and terms of the sale and surrender of the lease in Council's favour.
4. Council staff negotiate with the Autism Community Network to find accommodation that suits their needs and to their satisfaction.
5. The proceeds from the sale of the road and the surrender of the lease of the Illawong Community Centre be placed in an internally restricted reserve and specifically allocated to projects in the northern part of E Ward.
6. E ward Councillors have a working party for the appropriate allocation of such funds.

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 Awada, Cook, Croucher, Johns, Provan, Riad, Scaysbrook, Schreiber, Simpson and Walton.

Against the Resolution were Councillors Blight, Steinwall and Towell.

Min No: 345

FAS029-16

Clothing Appeal Bins on Council Land

File Number: 2015/37206

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

MOTION: (Councillor Blight/Councillor Steinwall)

That the report "Clothing Appeal Bins on Council Land" be received and noted.

AMENDMENT: (Councillor Johns/Councillor Awada)

THAT:

1. The Policy 'Clothing Appeal Collection Bins' be amended as indicated in the report to permit clothing bins on Council controlled land under a lease agreement.
2. For the first two years, any funds raised through the licensing fees be allocated to Enough is Enough, less the administrative costs of Council.

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

FURTHER AMENDMENT: (Councillor Blight/Councillor Steinwall)

1. That the Policy 'Clothing Appeal Collection Bins' be amended as indicated in the report to permit clothing bins on Council controlled land under a lease agreement.
2. That any funds raised through the licensing fees be allocated to Enough is Enough.

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 Councillors Blight, Scaysbrook, Steinwall and Towell.

Against the Further Amendment were the Mayor, Councillor Pesce, together with Councillors Awada, Croucher, Johns, Provan, Riad, Schreiber, Simpson and Walton.

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 Awada, Blight, Croucher, Johns, Provan, Riad, Schreiber, Simpson, Steinwall, Towell and Walton.

Against the Resolution was Councillor Scaysbrook.

Councillor Cook returned to the Meeting at this stage.

Min No: 346

FAS030-16

Minutes of Council Sub Committees

File Number: 2015/937

RESOLVED: (Councillor Johns/Councillor Provan*)

That the Charter for each council sub committee be amended to remove the requirement for the minutes of meetings to be reported to a Standing Committee of Council.

Min No: 347

CAL012-16

Section 356 Miscellaneous Donations & Subsidies

- November 2015 Round of Applications

File Number: 2015/208863

RESOLVED: (Councillor Johns/Councillor Provan*)

That the following organisations be provided subsidies/donations pursuant to S356 of the Local Government Act:

1. The Rotary Club of Hurstville - World Festival Of Magic event at Sutherland Entertainment Centre - \$1,000.
2. The Elouera Surf Life Saving Club Inc - 34th Tradies Annual Community Education Clinic at Caringbah Leisure Centre - \$1,000.

Min No: 348

CAL013-16

**Minutes of the Meeting of the Australia Day and
Citizenship Committee held on 16 September
2015**

File Number: 2015/2099

RESOLVED: (Councillor Johns/Councillor Provan*)

That the Minutes of the Meeting of the Australia Day and Citizenship Committee held on 16 September 2015 be received and noted.

Min No: 349

CAL014-16

Minutes of the Sutherland Shire Youth Council

Meeting held on 8 October 2015

File Number: 2015/1924

RESOLVED: (Councillor Johns/Councillor Provan*)

That the minutes of the meeting of the Sutherland Shire Youth Council held on 8 October 2015 be received and noted.

Min No: 350

EHR032-16

DCP Re-exhibition Submissions Report

File Number: 2015/226307

*** The Mayor, Councillor Pesce, together with Councillor Awada, Councillor Cook, Councillor Johns, and Councillor Steinwall declared a pecuniary interest in this matter.

*** Councillor Croucher declared a not significant non-pecuniary interest in this matter.

***** Special Disclosures of Pecuniary Interests**

In relation to this item, the Mayor, Councillor Pesce, together with Councillors Awada, Blight, Cook, Croucher, Johns, Provan, Riad, Scaysbrook, Schreiber, Simpson, Steinwall, Towell and Walton had previously made a special disclosure of pecuniary interest under sections 451 (4) and 451 (5) of the *Local Government Act 1993* advising that they, or persons they are associated with or related to, own properties within the Shire.

RESOLVED: (Councillor Johns/Councillor Scaysbrook)

That this matter be deferred pending the receipt of legal advice to Councillors on the implications of recent amendments to s451 of the Local Government Act 1993 as it affects councillors ability to debate and vote on the Sutherland Shire Development Control Plan 2015.

Min No: 351

**EHR033-16 Making of Draft Sutherland Shire Local
Environmental Plan 2015 - Amendment
No. 1 (Complying Development in E4)
File Number: 2015/65950**

*** Councillor Johns declared a pecuniary interest in this matter and did not vote. This matter was moved in bulk therefore there was no discussion on the item.

*** **Special Disclosures of Pecuniary Interests**

In relation to this item, the Mayor, Councillor Pesce, together with Councillors Awada, Blight, Cook, Croucher, Johns, Provan, Riad, Scaysbrook, Schreiber, Simpson, Steinwall, Towell and Walton had previously made a special disclosure of pecuniary interest under sections 451 (4) and 451 (5) of the *Local Government Act 1993* advising that they, or persons they are associated with or related to, own properties within the Shire.

RESOLVED: (Councillor Johns/Councillor Provan*)

That Pursuant to clause 400 of the *Local Government (General) Regulation 2005*, Draft Sutherland Shire Local Environmental Plan 2015 – Amendment No. 1 be executed under the Common Seal of the Council of the Sutherland Shire in the presence of the Mayor and General Manager.

A Division was recorded on the Resolution and the votes were as follows:

In Favour of the Resolution were the Mayor, Councillor Pesce, together with Councillors Awada, Blight, Cook, Croucher, Provan, Riad, Scaysbrook, Schreiber, Simpson, Steinwall, Towell and Walton.

The decision was unanimous.

Councillor Johns was not recorded as voting due to a pecuniary interest.

Min No: 352

**EHR034-16 Remaining Minor Amendments - Sutherland
Shire Local Environmental Plan 2015 -
Amendment 4
File Number: 2015/220811**

*** Councillor Steinwall declared a not significant non-pecuniary interest in this matter.

*** **Special Disclosures of Pecuniary Interests**

In relation to this item, the Mayor, Councillor Pesce, together with Councillors Awada, Blight, Cook, Croucher, Johns, Provan, Riad, Scaysbrook, Schreiber, Simpson, Steinwall, Towell and Walton had previously made a special disclosure of pecuniary interest under sections 451 (4) and 451 (5) of the *Local Government Act 1993* advising that they, or persons they are associated with or related to, own properties within the Shire.

RESOLVED: (Councillor Johns/Councillor Provan*)

That Council adopt the draft amendments as detailed in Schedule A of this Report as part of Amendment 4 to Sutherland Shire Local Environmental Plan 2015.

A Division was recorded on the Resolution and the votes were as follows:

In Favour of the Resolution were the Mayor, Councillor Pesce, together with Councillors Awada, Blight, Cook, Croucher, Johns, Provan, Riad, Scaysbrook, Schreiber, Simpson, Steinwall, Towell and Walton.

The decision was unanimous.

Min No: 353

**EHR035-16 Heritage Review Amendments - Sutherland
Shire Local Environmental Plan 2015 -
Housekeeping Amendment 4
File Number: 2015/222368**

*** **Special Disclosures of Pecuniary Interests**

In relation to this item, the Mayor, Councillor Pesce, together with Councillors Awada, Blight, Cook, Croucher, Johns, Provan, Riad, Scaysbrook, Schreiber, Simpson, Steinwall, Towell and Walton had previously made a special disclosure of pecuniary interest under sections 451 (4) and 451 (5) of the *Local Government Act 1993* advising that they, or persons they are associated with or related to, own properties within the Shire.

RESOLVED: (Councillor Johns/Councillor Provan*)

That Council incorporate the recommended changes to Schedule 5 Environmental Heritage of

Sutherland Shire Local Environmental Plan 2015 into Amendment 4 as detailed in Schedule A of this Report.

A Division was recorded on the Resolution and the votes were as follows:

In Favour of the Resolution were the Mayor, Councillor Pesce, together with Councillors Awada, Blight, Cook, Croucher, Johns, Provan, Riad, Scaysbrook, Schreiber, Simpson, Steinwall, Towell and Walton.

The decision was unanimous.

Min No: 354

EHR036-16

Review of Small Shops Currently Residentially Zoned

File Number: 2015/220811

***** Special Disclosures of Pecuniary Interests**

In relation to this item, the Mayor, Councillor Pesce, together with Councillors Awada, Blight, Cook, Croucher, Johns, Provan, Riad, Scaysbrook, Schreiber, Simpson, Steinwall, Towell and Walton had previously made a special disclosure of pecuniary interest under sections 451 (4) and 451 (5) of the *Local Government Act 1993* advising that they, or persons they are associated with or related to, own properties within the Shire.

RESOLVED: (Councillor Johns/Councillor Provan*)

That Council seek to rezone properties to B1 Neighbourhood Centre as part of Amendment 4 to Sutherland Shire Local Environmental Plan 2015, as detailed in Schedule A of this Report.

A Division was recorded on the Resolution and the votes were as follows:

In Favour of the Resolution were the Mayor, Councillor Pesce, together with Councillors Awada, Blight, Cook, Croucher, Johns, Provan, Riad, Scaysbrook, Schreiber, Simpson, Steinwall, Towell and Walton.

The decision was unanimous.

Min No: 355

EHR037-16 **SITA/SUEZ Lucas Heights Resource Recovery
Park - Public Exhibition
File Number: 2015/211777**

RESOLVED: (Councillor Riad/Councillor Awada)

THAT:

1. Council write to the Department of Planning and Environment advising that all issues raised by Council have been addressed during the preparation of the EIS and that Council is supportive of the application.
2. the Manager Environmental Science and members of Menai Community Group be thanked for their efforts in regards to this matter.

Councillor Simpson left the Meeting prior to discussion of the following item.

Min No: 356
EHR038-16 **Menai Town Centre - E2 Environmental
Conservation Land
File Number: 2015/46389**

RESOLVED: (Councillor Riad/Councillor Walton)

THAT:

1. Council engage a suitably qualified and accredited expert to examine possible bio-banking opportunities which would result in an acceptable environmental outcome and facilitate future urban development on the land within the Menai Town Centre identified in this report.
2. The outcome of the expert's examination of bio-banking opportunities be the subject of a future briefing to Councillors.

Councillor Simpson returned to the Meeting at this stage.

Min No: 357 **Procedural Motion
To Consider EHR039-16 in Conjunction with CCL027-16**

MOTION: (Councillor Walton/Councillor Provan)

That EHR039-16 be considered in conjunction with CCL027-16.

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

EHR039-16 **Update on Port Hacking Open Sailing Club and
Henry Turner Reserve
File Number: 2015/1889**

This matter was considered in conjunction with CCL027-16. For Decision, refer to Minute No. 368.

Min No: 358

EHR040-16 **2015 - 2016 Heritage Grants
File Number: 2015/36441**

RESOLVED: (Councillor Johns/Councillor Provan*)

That the Heritage Grants be distributed to the successful applicants as per the list attached in Schedule A.

Min No: 359

EHR041-16 **Minutes of the Heritage and Shire History Sub-
Committee Meeting held on 18 November 2015
File Number: 2015/1903**

RESOLVED: (Councillor Johns/Councillor Provan*)

That the minutes of the meeting of the Heritage and Shire History Sub-Committee held on 18 November 2015 be received and noted.

Min No: 360

IPR017-16 **Heathcote Road - Proposed Upgrade
File Number: 2015/82044**

RESOLVED: (Councillor Johns/Councillor Provan*)

That the report on the proposed upgrade of Heathcote Road be received and noted.

Min No: 361

**IPR018-16 NSW State Emergency Services (SES) Sub-Unit
Establishment
File Number: 2015/36687, 2015/217169**

RESOLVED: (Councillor Johns/Councillor Provan*)

THAT:

1. The finalisation of a lease agreement with Telstra Corporation Limited for the use of the building at 295 Menai Road, Menai for State Emergency Services purposes be approved at terms and conditions to the satisfaction of the General Manager.
2. Pursuant to Clause 400 of the Local Government Regulation 2005 the following documents be executed under Common Seal of the Council of the Sutherland Shire:

Type of Document: Lease Agreements - 295 Menai Road, Menai, being Part Lot 1 DP589809
Other Party: Telstra Corporation Limited

3. The finalisation of a lease agreement with Hungry Point Reserve Trust for the use of the Hungry Point Reserve - Building 7 at 196 - 202 Nicholson Parade, Cronulla for State Emergency Services purposes be approved at terms and conditions to the satisfaction of the General Manager.
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: Lease Agreements - 196 - 202 Nicholson Parade, Cronulla, being part of Lot 1187 DP752064
Other Party: Hungry Point Reserve Trust

Min No: 362

**IPR019-16 Footpath Provision & Management Policy
File Number: 2015/16147**

RESOLVED: (Councillor Johns/Councillor Provan*)

That the draft Footpath Provision & Management Policy, attached as Appendix "A" to the report, be placed on public exhibition.

Min No: 363

**IPR020-16 Minutes of the Significant Parks and Shire
Landmarks Committee Meeting held on
9 September 2015
File Number: 2015/2012**

RESOLVED: (Councillor Johns/Councillor Provan*)

THAT:

1. The Minutes of the Significant Parks & Landmarks Committee meeting held on 9 September 2015 be received and noted.
2. Mr Bruce Howell be accepted as a member of the Significant Parks & Shire Landmarks Committee.
3. Budgetary consideration be given to the significant parks masterplans to be developed or updated over the next three years.

Min No: 364

**IPR021-16 Report and Minutes of the Meeting of the
Sutherland Traffic and Traffic Safety
Committee held on Friday, 6 November 2015
File Number: 2015/2036**

RESOLVED: (Councillor Johns/Councillor Provan*)

THAT:

1. The decisions contained in the Minutes of the Sutherland Traffic and Traffic Safety Committee Meeting held on 6 November 2015 be noted.
2. The provision of "No Stopping" signage in Schofield Place, at the intersection with Allison Crescent, Menai be considered by the Sutherland Traffic Committee.

Min No: 365

**IPR022-16 Report and Minutes of the Meeting of the
Consultative Traffic Forum held on Friday,
6 November 2015
File Number: 2015/2036**

RESOLVED: (Councillor Johns/Councillor Provan*)

That the Minutes of the Consultative Traffic Forum Meeting held on 6 November 2015 be received and noted.

Min No: 366

**CCL025-16 Code of Conduct Complaint Statistics
File Number: 2015/14310**

RESOLVED: (Councillor Johns/Councillor Provan*)

That the report on the Code of Conduct Complaints Statistics be received and noted.

Min No: 367

**CCL026-16 Community Services and Arts Grants Program
- Allocation of Additional Funds
File Number: 2015/216032**

RESOLVED: (Councillor Johns/Councillor Provan*)

That additional funds of \$5,000 be allocated from the Communities Unit budget account SC CY1 SUB SUB 014 MCGG for recipients of the Community Services and Arts Grants Program 2015/2016.

Min No: 368

**CCL027-16 Port Hacking Open Sailing Club and Henry
Turner Reserve - Results of Consultation
File Number: 2015/1889**

RESOLVED: (Councillor Walton/Councillor Provan)

THAT:

1. The update report on the review of the effectiveness of the measures put in place in addressing the antisocial behaviour at the Port Hacking Open Sailing Club and Henry Turner Reserve be received and noted.
2. A meeting be held prior to the Council Meeting on 14 December 2015 to allow the residents, the Port Hacking Sailing Club and Council staff to meet to reach a resolution.
3. A report be provided to a meeting of the Port Hacking Management Panel in six months on the effectiveness of the measures implemented as outlined in this report.

Min No: 369

**CCL028-16 Development Application No. 15/1181, Called
Up to the Independent Hearing and
Assessment Panel by a Councillor
File Number: DA15/1181**

MOTION: (Councillor Towell/Councillor Walton)

That Development Application No. 15/1181 for the construction of an 18 room boarding house development at 148 Kingsway, Woollooware be referred to the Independent Hearing and Assessment Panel for consideration.

AMENDMENT: (Councillor Provan/Councillor Schreiber)

That Development Application No. 15/1181 for the construction of an 18 room boarding house development at 148 Kingsway, Woollooware be determined under staff delegation.

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 Awada, Cook, Croucher, Johns, Provan, Riad, Schreiber, Simpson and Walton.

Against the Amendment were Councillors Blight, Scaysbrook, Steinwall and Towell.

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 Awada, Cook, Croucher, Johns, Provan, Riad, Schreiber, Simpson and Walton.

Against the Resolution were Councillors Blight, Scaysbrook, Steinwall and Towell.

Min No: 370

**CCL029-16 Development Application No. 15/0161, Called
Up to the Independent Hearing and
Assessment Panel by a Councillor
File Number: DA15/0161**

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

RESOLVED: (Councillor Blight/Councillor Johns)

That Development Application No. 15/0161 for the demolition of existing dwelling and the construction of a child care centre with basement car parking at 51 Coonong Road, GyMEA Bay be referred to the Independent Hearing and Assessment Panel for consideration.

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 Blight, Cook, Croucher, Johns, Provan, Riad, Scaysbrook, Schreiber, Simpson, Steinwall, Towell and Walton.

The decision was unanimous.

Councillor Awada returned to the Meeting at this stage.

Min No: 371

CCL030-16 Development Application No. 15/0662, Called

**Up to the Independent Hearing and
Assessment Panel by a Councillor
File Number: DA15/0662**

MOTION: (Councillor Provan/Councillor Riad)

That Development Application No. 15/0662 is for Demolition of 2 existing dwellings and construction of a 6 storey residential flat building containing 13 apartments with 2 levels of basement carpark and a 13 lot strata subdivision, 60-62 Ewos Parade, Cronulla be determined under staff delegation.

AMENDMENT: (Councillor Simpson/Councillor Johns)

That Development Application No. 15/0662 is for Demolition of 2 existing dwellings and construction of a 6 storey residential flat building containing 13 apartments with 2 levels of basement carpark and a 13 lot strata subdivision, 60-62 Ewos Parade, Cronulla be referred to the Independent Hearing and Assessment Panel for consideration.

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

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

In Favour of the Amendment were Councillors Simpson and Steinwall.

Against the Amendment were the Mayor, Councillor Pesce, together with Councillors Awada, Blight, Cook, Croucher, Johns, Provan, Riad, Scaysbrook, Schreiber, Towell and Walton.

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

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 Awada, Cook, Croucher, Johns, Provan, Riad, Scaysbrook, Schreiber, Towell and Walton.

Against the Resolution were Councillors Blight, Steinwall and Towell.

Min No: 372

MOT005-16

Ban on Smoking in Public Places

File Number: 2015/213876

MOTION: (Councillor Cook/Councillor Simpson)

THAT:

1. The public health dangers and detrimental environmental impact associated with smoking be noted.
2. Smoking be banned on all Council beaches.
3. The provision of adequate facilities to be provided adjacent to beaches for smokers be investigated subject to a further report.
4. An education campaign be undertaken by Communications to inform the public of the smoking ban on beaches.

AMENDMENT: (Councillor Awada/The Mayor, Councillor Pesce)

THAT:

1. The public health dangers and detrimental environmental impact associated with smoking be noted.
2. Councillors receive a briefing from Council Officers on the opportunities to expand the ban on smoking in public places to beaches and other public places regularly frequented by the community. The briefing shall address the merits, costs and implications of an education program and/or enforcement program and report on the experiences that other metropolitan councils have had when implementing similar programs.

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 Awada, Blight, Croucher, Provan, Schreiber and Towell.

Against the Amendment were Councillors Cook, Johns, Riad, Scaysbrook, Simpson, Steinwall and Walton.

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

FURTHER AMENDMENT: (Councillor Johns/Councillor Towell)

THAT:

1. Council indicate that it intends to ban smoking on beaches.
2. Council receive a report at the next Council meeting on how this policy can be implemented with immediate effect.
3. The General Manager be delegated authority to implement the policy if there are no substantial financial implications.

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

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

In Favour of the Further Amendment were Councillors Cook, Croucher, Johns, Riad, Scaysbrook, Simpson, Steinwall, Towell and Walton.

Against the Further Amendment were the Mayor, Councillor Pesce, together with Councillors Awada, Blight, Provan and Schreiber.

The Motion on being put to the Meeting was carried to become the RESOLUTION of the Council **(as shown in the Further 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 Awada, Blight, Cook, Croucher, Johns, Provan, Riad, Scaysbrook, Schreiber, Simpson, Steinwall, Towell and Walton.

The decision was unanimous.

Min No: 373

MOT006-16

Extension of the Sutherland Night Markets

File Number: 2015/36660

RESOLVED: (Councillor Riad/Councillor Awada)

THAT:

1. Council notes the strong success of the initial night market held on Friday, 27 November.
2. The trial be extended to include a further two night markets to be held in January and February.
3. The cost of the additional markets be found from within existing budgets.

Councillor Johns left the Meeting at this stage.

Min No: 374

MOT007-16

Removal of Services from Engadine Town Centre

File Number: 2015/83472

MOTION: (Councillor Steinwall/Councillor Towell)

THAT:

1. Council, as a matter of urgency, write to the relevant State Minister and State Member for Heathcote, urging them to reconsider the removal of vital services from the Engadine Town Centre.
2. This be done before the Christmas holiday break.
3. Council emphasise the importance of having a Roads and Maritime Services (RMS) office in the Engadine Town Centre, the inconvenience caused to residents in the area, as well as the economic implications for the Engadine business community.

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

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

In Favour of the Motion were Councillors Blight, Scaysbrook, Steinwall and Towell.

Against the Motion were the Mayor, Councillor Pesce, together with Councillors Awada, Cook, Croucher, Provan, Riad, Schreiber, Simpson and Walton.

Councillor Johns returned to the Meeting at this stage.

Min No: 375

MOT008-16 Community Services and Arts Grants
File Number: 2015/216032

MOTION: (Councillor Blight/Councillor Steinwall)

THAT:

1. The recommendation of staff and the Community and Lifestyles Committee to provide the following grants under Council's Community Services and Arts Grants Program:

Advance Diversity Services \$10,000

Macedonian Australian Welfare Association \$12,500

be adopted.

2. The report for the December Budget review consider the additional provision of funds towards the 2015/16 Community Services and Arts Grants program.

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

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

In Favour of the Motion were Councillors Blight, Scaysbrook, Steinwall and Towell.

Against the Motion were the Mayor, Councillor Pesce, together with Councillors Awada, Cook, Croucher, Johns, Provan, Riad, Schreiber, Simpson and Walton.

Min No: 376 Extension of Meeting

RESOLVED: (Councillor Schreiber)

That the Meeting be extended to 11.00 pm.

Min No: 377 Notice of Alteration

**ALT003-16 Mayoral Minute No. 12/15-16 Delegation of
Development Application Determining
Authority to the General Manager
File Number: 2015/217942**

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

MOTION: (Councillor Blight/Councillor Awada)

It was moved that the following Mayoral Minute No. 12/15-16, Resolution of Council, Minute No. 241, at its Meeting on 28/09/15, be altered:

FROM:

1. That Council endorse the delegation to the General Manager of determining authority for applications referred to the Independent Hearing and Assessment Panel.
2. That, in view of point 1 above, the General Manager be requested to undertake a review of the current instrument of delegation in regard to development and related applications and processes relating to determination and report back to Council.
3. That the General Manager review the operation of Council's Independent Hearing and Assessment Panel and report back to Council on any changes considered beneficial.
4. That the new process be the subject of the first workshop with Councillors to ensure a full understanding of the process.

TO:

1. That Council reinstate delegation arrangements whereby development applications referred to the Independent Hearing and Assessment Panel are reported to the Environmental Health and Regulation Committee, then reported to a Council meeting for determination.
2. That the General Manager review the operation of Council's Independent Hearing and Assessment Panel and report back to Council on any changes considered beneficial.

The Notice of Alteration on being put to the Meeting was declared lost.

A Division was requested on the Notice of Alteration and the following votes were recorded:

In Favour of the Notice of Alteration were Councillors Blight, Scaysbrook, Simpson, Steinwall and Towell.

Against the Notice of Alteration were the Mayor, Councillor Pesce, together with Councillors Awada, Cook, Croucher, Johns, Provan, Riad, Schreiber and Walton.

Min No: 378 Business Without Notice
Proposed Expansion of Sandy Point Quarry
File Number: 2015/46392

Councillor Riad requested that Business Without Notice concerning the Proposed Expansion of Sandy Point Quarry be considered as a matter of urgency.

RESOLVED: (Councillor Riad/Councillor Simpson)
 That permission be granted to bring forward Business Without Notice regarding the Proposed Expansion of Sandy Point Quarry.

The Mayor, Councillor Pesce, ruled in accordance with Clause 19(3)(b) of Council's Code of Meeting Practice that the matter was of great urgency.

Min No: 379
BWN007-16 Proposed Expansion of Sandy Point Quarry
File Number: 2015/46392

RESOLVED: (Councillor Riad/Councillor Simpson)
 That the Director Shire Planning provide a submission against the proposed expansion of the Sandy Point Quarry.

Petition

Min No: 380 Development Application for Boarding House - Cambrai Avenue, Engadine

File Number: DA15/1437

Councillor Walton tabled a petition from residents to reject the Development Application for a boarding house at 91 Cambrai Avenue, Engadine.

Min No: 381

At this time in the Meeting, all closed items not called for discussion were moved in bulk, as shown: “RESOLVED: (Councillor Johns/Councillor Provan)”.**

Min No: 382 CONSIDERATION OF BUSINESS OF CLOSED SESSION (10.55 pm)

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: (The Mayor, Councillor Pesce)

That in accordance with Section 10(A)(1) of the Local Government Act, 1993 (as amended) the matters listed in the Agenda be considered in Closed Session of Council for the reasons provided.

**FAS001A-16 Proposed Renewal of Lease Ground Floor and
Part Level 2, 36 Eton Street, Sutherland -
Financial Considerations
File Number: 2015/37148**

Section 10A(2)(d)(ii) Commercial Information of a Confidential Nature:

This matter was considered in Closed session as it relates to commercial information the disclosure of which would be likely to confer a commercial advantage on a competitor of the council. On balance, the public interest in preserving the confidentiality of information relating to council's commercial activities outweighs the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information could allow competitors to council's commercial activities to gain a commercial advantage.

**FAS002A-16 Proposed Acquisition of Open Space Land
at 2 Mawarra Avenue, Miranda - Financial
Considerations
File Number: 2015/4729**

Section 10A(2)(c) 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 was considered in Closed session as it relates to the entering into of a contract where prior knowledge of the proposal could confer an unfair financial advantage on any person. On balance, the public interest in preserving the confidentiality of information about proposed contracts 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 contractor.

**FAS003A-16 Minutes of the Commercial Property Projects
Steering Committee held on 26 October 2015
File Number: 2015/2089**

Section 10A(2)(d)(ii) Commercial Information of a Confidential Nature:

This matter was considered in Closed session as it relates to commercial information the disclosure of which would be likely to confer a commercial advantage on a competitor of the council. On balance, the public interest in preserving the confidentiality of information relating to council's commercial activities outweighs the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information could allow competitors to council's commercial activities to gain a commercial advantage.

CAL001A-16 Expression of Interest - Farmers Market Operation
File Number: 2015/222204

Section 10A(2)(d)(i) Commercial Information of a Confidential Nature:

This matter was 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.

IPR003A-16 Completion of Sutherland Shopping Centre
Undergrounding of Power Supply and Lighting
Upgrade
File Number: 2015/223291

Section 10A(2)(d)(i) Commercial Information of a Confidential Nature:

This matter was 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.

IPR004A-16 Award of Tender No. T540/15 Design and
Construction of Stabilised Pavements
File Number: 2015/226881

Section 10A(2)(d)(i) Commercial Information of a Confidential Nature:

This matter was 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.

**CCL005A-16 Legal Proceedings - Racial Discrimination Act
1975 (Cth)
File Number: 2015/225485**

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 was 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.

Min No: 383

**FAS001A-16 Proposed Renewal of Lease Ground Floor and
Part Level 2, 36 Eton Street, Sutherland -
Financial Considerations
File Number: 2015/37148**

RESOLVED: (Councillor Johns/Councillor Provan**)

That the report "Proposed Renewal of Lease Ground Floor and Part Level 2, 36 Eton Street, Sutherland - Financial Considerations" be received and noted.

Min No: 384

**FAS002A-16 Proposed Acquisition of Open Space Land
at 2 Mawarra Avenue, Miranda - Financial
Considerations
File Number: 2015/4729**

RESOLVED: (Councillor Johns/Councillor Provan**)

That the report "Proposed Acquisition of Open Space Land 2 Mawarra Avenue, Miranda - Financial Considerations" be received and noted.

Min No: 385

FAS003A-16

Minutes of the Commercial Property Projects

Steering Committee held on 26 October 2015

File Number: 2015/2089

RESOLVED: (Councillor Johns/Councillor Provan**)

THAT:

1. The Director Shire Services be requested to prepare a report to Council on the proposed development opportunity pertaining to Jannali Community Centre outlining the financial implications and potential benefits to Council and the community.
2. The outcome of the Gunnamatta Pavilion consultation be reported to the next round of Council meetings.
3. The Agreement to Lease be issued to "The Clubhouse" for their consideration and comments.
4. The Charter for the Commercial Property Projects Steering Committee be adopted.

Min No: 386

CAL001A-16

Expression of Interest - Farmers Market Operation

File Number: 2015/222204

RESOLVED: (Councillor Johns/Councillor Provan**)

THAT:

1. The submission received from Dincorp Pty Ltd for the Operation of a Farmers Market, at terms and conditions to the satisfaction of the General Manager, be approved.
2. Pursuant to Clause 400 of the Local Government Regulation 2005, the following documents be executed under Common Seal of the Council of the Sutherland Shire:

Type of Document: Tender for Operation of a Farmers Market

Other Party: Dincorp Pty Ltd

Min No: 387

**IPR003A-16 Completion of Sutherland Shopping Centre
Undergrounding of Power Supply and
Lighting Upgrade
File Number: 2015/223291**

RESOLVED: (Councillor Johns/Councillor Provan**)

THAT:

1. Council accept the late tender submitted by Mackex Services Pty Ltd (ABN 33 159 028 029).
2. The tender received from Mackex Services Pty Ltd (ABN 33 159 028 029) for the Completion of the Sutherland Shopping Centre Undergrounding of Power and Lighting upgrade for the Lump Sum of \$168,700 (excluding GST) be approved at terms and conditions to the satisfaction of the General Manager.
3. 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: Tender for the Completion of the Sutherland Shopping Centre
Undergrounding of Power and Lighting upgrade,

Other Party: Mackex Services Pty Ltd (ABN 33 159 028 029) for \$168,700.

Min No: 388

**IPR004A-16 Award of Tender No. T540/15 Design and
Construction of Stabilised Pavements
File Number: 2015/226881**

RESOLVED: (Councillor Johns/Councillor Provan**)

THAT:

1. The Tender received from Roadworx Surfacing Pty Ltd (ABN 41 080 594 145) for Design and Construction of Stabilised Pavements - T540/15 for the Lump Sum of \$1,734,838.40 (excluding GST) be approved at terms and conditions to the satisfaction of the General Manager.

2. Pursuant to Clause 400 of the Local Government Regulation 2005, the following documents be executed under Common Seal of the Council of the Sutherland Shire:

Type of Document: Tender for Design and Construction of Stabilised Pavements

Other Party: Roadworx Surfacing Pty Ltd (ABN 41 080 594 145) (T540/15) for the Lump Sum Price of \$1,734,838.40 (excl. GST).

Min No: 389

CCL005A-16

**Legal Proceedings - Racial Discrimination Act
1975 (Cth)**

File Number: 2015/225485

RESOLVED: (Councillor Johns/Councillor Provan**)

THAT:

1. Council endorse the actions taken by the General Manager to lodge a complaint with the Australian Human Rights Commission and to commence proceedings in the Federal Court in Council's representative capacity under section 46PB of the Australian Human Rights Commission Act 1986 (Cth).
2. Pursuant to s356(1) of the *Local Government Act* 1993 (NSW) Financial Assistance be provided to Dr Jamal Rifi in relation to the complaint lodged with the Australia Human Rights Commission and Federal Court regarding the "2015 Cronulla Riots Memorial".

The Meeting closed at 11.00 pm.

CONFIRMED:

MINUTE NO: