
Minutes of the Council Meeting 19 May 2021

Present:

Steve Christou (Mayor)	Councillor
Eddy Sarkis (Deputy Mayor)	Councillor
Ned Attie	Councillor
George Campbell	Councillor
Greg Cummings	Councillor
Glenn Elmore	Councillor
Paul Garrard	Councillor
Ola Hamed	Councillor
Kun Huang	Councillor
Lisa Lake	Councillor
Joseph Rahme	Councillor
Suman Saha	Councillor
Michael Zaiter	Councillor
Tom Zreika	Councillor
Peter Fitzgerald	Acting General Manager
Daniel Cavallo	Director Environment & Planning
Melissa Attia	Director Community & Organisation Development
Brendan Govers	Acting Director Works & Infrastructure
Richard Sheridan	Director Finance & Governance

Also Present:

Charlie Ayoub	Executive Manager Corporate Services
Colin McFadzean	General Counsel
Carol Karaki	Senior Governance & Civic Events Coordinator
Olivia Shields	Senior Governance & Civic Events Officer

The Mayor, Councillor Christou declared the meeting open at 6:31pm.

Opening Prayer

The opening prayer was read by Pastor Edward Conteh from the Auburn Salvation Army.

Acknowledgement of Country

The Mayor, Councillor Christou read the following Acknowledgement of Country:

"I would like to acknowledge the traditional owners of this land – the Darug People, and pay my respects to their elders past, present and emerging."

National Anthem

At this point in the meeting the Mayor, Councillor Christou asked all of those in attendance to stand for the playing of the Australian National Anthem.

Notice of Live Streaming of Council Meeting

The Mayor, Councillor Christou advised that the Council meeting was being streamed live on Council's website and members of the public must ensure their speech to the Council is respectful and use appropriate language.

Apologies/Leave of Absence

Nil.

Declarations of Pecuniary & Non Pecuniary Conflicts of Interest

There were no declarations of interest.

Confirmation of Minutes

Min.1134 **C05/21-747 Minutes of the Ordinary Meeting of Council - 5 May 2021**

Resolved (Cummings/Attie)

That Council confirm the minutes of the Ordinary Meeting of Council held on 5 May 2021.

Min.1135 **MM05/21-57 – Mayoral Minute – Support for Western Sydney Hospitals**

Note: Councillor Elmore declared a significant non-pecuniary interest in this item, as his wife is employed as a midwife in Auburn Hospital and exited the Chamber at 6:38pm and returned to the Chamber following the consideration of this item at 6:50pm. Councillor Huang declared a less than significant, non-pecuniary interest in relation to this item as he is a member of the Auburn Hospitals Community Council in a voluntary position. As this is not significant, Councillor Huang remained in the Chamber for the consideration of this item.

Resolved (Christou)

That Council:

1. Support the Mayoral Minute;
2. Instigate through the Acting General Manager a community petition, seeking the upgrade and significant resourcing allocation for Auburn, Westmead Hospital and Westmead Children's Hospital, including the reinstatement of a dedicated palliative care unit at Westmead; and
3. Following the petition closing, write to the relevant Members of Parliament and the Premier, providing them with a copy of the Petition, strongly advocating for the required upgrades and funding.

Carried Unanimously

Min.1136 MM05/21-58 – Mayoral Minute - Cumberland City Council's 2021 Ramadan Iftar Dinner

Resolved (Christou)

That Council:

1. Thank all the religious leaders and groups in attendance at the Cumberland City Council 2021 Ramadan Iftar Dinner.
2. Recognise and thank all the staff involved across Council in planning and delivering the 2021 Ramadan Iftar Dinner.
3. Make a donation of \$2,558 to the Holroyd Community Aid Inc Charity.

Carried Unanimously

Min.1137 MM05/21-59 – Mayoral Minute – Conflict in Gaza Strip

Resolved (Christou)

That Council write to the Prime Minister of Australia, urging him to hold immediate talks with world leaders in an effort to negotiate a peaceful end to the current conflict in Israel and the Palestinian Territories, and further seek to negotiate a resolution to the underlying issues of which the current conflict is a symptom.

Carried Unanimously

Min.1138 MM05/21-60 – Mayoral Minute – Advocacy for Improved Express Train Services

Resolved (Christou)

That Council:

1. Write to local Members of Parliament including Ms Finn on behalf of Granville and Ms Voltz on behalf of Auburn, urging them to strongly increase advocacy efforts to the State Government for the reinstatement of express train services in the Cumberland City Council area.
2. Write to the NSW Premier, and Minister of Transport and Roads, again urging them to reinstate express train services in the Cumberland City Council area.

Carried Unanimously

Min.1139 Matter of Urgency – Councillor Hamed

Resolved (Hamed/Campbell)

That in accordance with Clause 9.3(b) of the Cumberland Council Code of Meeting Practice, Standing Orders be suspended to permit the Matter of Urgency in relation to the Conflict in Gaza.

Min.1140 Matter of Urgency – Conflict in Gaza

Resolved (Hamed/Campbell)

That Council:

1. Write to Prime Minister Scott Morrison and Minister for Foreign Affairs Marise Payne calling on the Australian government to work towards halting any further land expropriation and settler expansion in Gaza as well as an immediate mutual ceasefire.
2. Shares grave concerns about atrocities which the Israeli government and military are perpetrating against innocent Palestinian civilians including children, journalists and places of worship.
3. Is saddened by the tragic loss of life and injuries of innocent civilians on both sides.
4. Deplores the violence against worshippers at the Al-Aqsa.
5. Deplores the oppression Palestinians endure under Israeli occupation as well as Israel's violation of international human rights and humanitarian laws.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Campbell, Cummings, Elmore, Garrard, Hamed, Huang, Lake, Saha and Zreika.

Councillor(s) Against the Motion: Attie, Christou, Rahme, Sarkis and Zaitev.

Min.1141 Items by Exception

Resolved (Cummings/Sarkis)

That Council adopt items C05/21-748, C05/21-751, C05/21-752, C05/21-753, C05/21-755, C05/21-758, C05/21-759, C05/21-760, C05/21-761, C05/21-765 and C05/21-766 on the Council Agenda in bulk as per the recommendations in the reports.

Min.1142 C05/21-748 Legal Report

Resolved (Cummings/Sarkis)

That Council receive the report.

Min.1143 C05/21-751 Quarter 3 Quarterly Budget Review Statement

Resolved (Cummings/Sarkis)

That Council approve the revised estimates of income and expenditure for 2020/21 contained in the Quarterly Budget Review Statement.

Min.1144 C05/21-752 Monthly Management Accounts - March 2021

Resolved (Cummings/Sarkis)

That Council receive the report.

Min.1145 C05/21-753 Investment Report - April 2021

Resolved (Cummings/Sarkis)

That Council receive the 30 April 2021 Investment Report.

Min.1146 C05/21-755 Update on Approved Mayoral Community Fund Applications

Resolved (Cummings/Sarkis)

That Council receive the report.

Min.1147 C05/21-758 Asbestos Management Framework - Post Exhibition Report

Resolved (Cummings/Sarkis)

That Council adopt the *Asbestos Management Framework* as outlined in Attachment 1 of this report.

Min.1148 C05/21-759 NSW Public Spaces Legacy Program - Project Funding Agreement

Resolved (Cummings/Sarkis)

That Council delegates the Acting General Manager to sign the funding agreement to design and deliver the Merrylands Civic Square project under the NSW Public Spaces Legacy Program.

Min.1149 C05/21-760 Adoption of New Footpath Construction Policy

Resolved (Cummings/Sarkis)

That Council adopt the New Footpath Construction Policy as outlined in Attachment 1 of this report.

Min.1150 C05/21-761 Traffic Committee - Minutes of Meetings held 25 February 2021 and 7 April 2021

Resolved (Cummings/Sarkis)

That:

1. The minutes of Part 1 Items of the Cumberland Traffic Committee electronic meeting of 25 February and 7 April 2021, be received and noted; and
2. The minutes of Part 2 Items of the Cumberland Traffic Committee electronic meeting of 25 February and 7 April 2021, be received and recommendations contained therein be approved.

Min.1151 C05/21-765 Tender Evaluation Report - Tree Planting

Resolved (Cummings/Sarkis)

That Council:

1. Decline to accept all tenders in accordance with Clause 178(1)(b) of the Local Government (General) Regulation 2005.
2. Negotiate with the Office of the Open Space & Parklands, NSW Department of Planning & Environment to amend the scope of works and project milestones, to achieve greater cost reductions.
3. In accordance with Clause 178(3)(b) of the Local Government (General) Regulation 2005, resolve to invite tenders selected from the companies listed in Procurement Australia Contract 2302/1402 Tree Pruning and associated services (Category 4 – Tree Planting and Establishment) to provide the best outcomes to Council.

Min.1152 C05/21-766 Tender Evaluation Report - Tree Services Panel Contract

Resolved (Cummings/Sarkis)

That Council:

1. Accept the Tender Evaluation Panel's recommendation to include the following companies into the approved Tree Services Panel Contract in accordance with Clause 178(1)(a) of the Local Government (General) Regulations 2005, for a three (3) year contract term.
 - i. Plateau Tree Service (ABN 17 090 798 002)
 - ii. General Forest Tree Surgeon P/L (ABN 61 104 092 739)
 - iii. Summit Open Space Services (ABN 83 055 140 424)
 - iv. Tree Serve Pty Ltd (ABN 87 169 334 712)
 - v. Australian Urban Tree Services (ABN 36 057 881 302)
 - vi. Active Tree Services Pty Ltd (ABN 56 002 919 299)
2. Delegate to the General Manager the authority to execute the contract and any associated documents.

Min.1153 C05/21-750 Quarter 3 Report on the Operational Plan 2020-21

Resolved (Saha/Elmore)

That Council receive the report.

Carried Unanimously

Councillor Zaiter left the Meeting at 7:45pm and returned to the Meeting at 7:47pm during the consideration of this item.

C05/21-751 Quarter 3 Quarterly Budget Review Statement

This item was dealt with earlier in the meeting.

C05/21-752 Monthly Management Accounts - March 2021

This item was dealt with earlier in the meeting.

C05/21-753 Investment Report - April 2021

This item was dealt with earlier in the meeting.

Min.1154 C05/21-754 Report on Outstanding Council Resolutions

Resolved (Campbell/Lake)

That Council:

1. Receive the report.
2. Note that Point 8 of Minute 513 (Meeting 1/5/19) be included in every future Report of Outstanding Council Resolutions until it is actually implemented.

Carried Unanimously

Councillor Rahme left the Meeting at 7:48pm and returned to the Meeting at 7:50pm during the consideration of this item.

Councillor Saha left the Meeting at 7:49pm and returned to the Meeting at 7:52pm during the consideration of this item.

C05/21-755 Update on Approved Mayoral Community Fund Applications

This item was dealt with earlier in the meeting.

Min.1155 C05/21-756 2 Percy Street, Auburn - Draft Voluntary Planning Agreement

Resolved (Attie/Garrard)

That Council:

1. Endorse that the Voluntary Planning Agreement for 2 Percy Street, Auburn, be publicly notified for a period of 28 days in accordance with statutory and policy requirements.
2. Endorse and delegate authority to the Mayor and Acting General Manager to execute the Voluntary Planning Agreement on behalf of Council for 2 Percy Street, Auburn, as provided in Attachment 1, subject to no significant objections on the Agreement being received during exhibition.
3. Note that, once the draft Voluntary Planning Agreement is executed, signed by all parties and is registered on title, a copy of the executed Voluntary Planning Agreement be forwarded to the Planning Secretary, as required by the approved State Significant Development Application.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion:

Attie, Campbell, Christou, Cummings, Elmore, Garrard, Hamed, Huang, Lake, Rahme, Saha, Sarkis, Zaiter and Zreika.

Councillor(s) Against the Motion: Nil

**Min.1156 C05/21-757 45 Barcom Street, Merrylands West - Planning
Proposal, Development Control Plan and Voluntary Planning
Agreement**

Resolved (Attie/Elmore)

That Council:

1. Adopt the exhibited planning controls for 45 Barcom Street, Merrylands West, as previously resolved by Council, being:
 - a. a R4 High Density Residential land zoning;
 - b. a Height of Buildings control of 15 metres;
 - c. a Floor Space Ratio control of 0.85:1; and
 - d. a new clause in Part 6 (Additional Local Provisions) limiting retail/commercial floor space to 1,480 square metres.
2. Finalise the Planning Proposal (attachment 1), as delegated by the Minister, following execution of the Voluntary Planning Agreement and registration on title.
3. Note that the Local Environmental Plan amendment will be published in the Government Gazette upon finalisation.
4. Adopt the site-specific Development Control Plan as an amendment to the Holroyd Development Control Plan 2013, as provided in attachment 2, with the Development Control Plan coming into effect on the date of notification (gazettal) of the Local Environmental Plan amendment.
5. Endorse that the site-specific Development Control Plan provisions be carried over to the new Cumberland Development Control Plan when this is in force, as provided in attachment 3.
6. Endorse and delegate authority to the Mayor and Acting General Manager to execute the Voluntary Planning Agreement on behalf of Council for 45 Barcom Street, Merrylands West, as provided in attachment 4.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Attie, Campbell, Christou, Cummings, Elmore, Garrard, Hamed, Huang, Lake, Rahme, Saha, Sarkis, Zaiter and Zreika.

Councillor(s) Against the Motion: Nil

C05/21-758 Asbestos Management Framework - Post Exhibition Report

This item was dealt with earlier in the meeting.

C05/21-759 NSW Public Spaces Legacy Program - Project Funding Agreement

This item was dealt with earlier in the meeting.

C05/21-760 Adoption of New Footpath Construction Policy

This item was dealt with earlier in the meeting.

C05/21-761 Traffic Committee - Minutes of Meetings held 25 February 2021 and 7 April 2021

This item was recommitted later in the meeting, as detailed in these Minutes.

Min.1157 C05/21-762 Traffic Committee - Minutes of Meeting held 28 April 2021

Resolved (Zreika/Garrard)

That:

1. The minutes of Part 1 Items of the Cumberland Traffic Committee Extraordinary electronic meeting of 28 April 2021, be received and noted; and
2. The minutes of Part 2 Items of the Cumberland Traffic Committee Extraordinary electronic meeting of 28 April 2021, be received and recommendations contained therein be approved subject to concurrence of all voting members of the Traffic Committee.

Carried Unanimously

Councillor Attie left the Meeting at 7:58pm during the consideration of this item.

Councillor Zaiter left the Meeting at 8:01pm during the consideration of this item.

Min.1158 Recomittal Motion – Item C05/21-761 Traffic Committee - Minutes of Meetings held 25 February 2021 and 7 April 2021

Resolved (Sarkis/Garrard)

That item C05/21-761 be recommitted for the consideration of Council.

Min.1159 C05/21-761 Traffic Committee - Minutes of Meetings held 25 February 2021 and 7 April 2021

Resolved (Zreika/Garrard)

That:

1. The minutes of Part 1 Items of the Cumberland Traffic Committee electronic meeting of 25 February and 7 April 2021, be received and noted with the exception of CTC21-078 which will be referred back to the CTC; and
2. The minutes of Part 2 Items of the Cumberland Traffic Committee electronic meeting of 25 February and 7 April 2021, be received and recommendations contained therein be approved.

Councillor Zaiter returned to the Meeting at 8:02pm during the consideration of this item.

Min.1160 C05/21-763 Notice of Motion - Laurie Ferguson Splash Park

Resolved (Rahme/Attie)

That due to the current state of the Laurie Ferguson Splash Park at Granville Park, with consideration to previous Council reports regarding Council's approach in installing splash parks, request a report which:

1. Addresses the feasibility of removing this facility from Granville Park and provide a more suitable playground for the community at this location including a water play feature.
2. Provides advice with respect to the installation of a water play experience within the Granville Swim Centre.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Attie, Campbell, Christou, Cummings, Garrard, Hamed, Huang, Lake, Rahme, Saha, Sarkis, Zaiter and Zreika.

Councillor(s) Against the Motion: Elmore.

Councillor Attie returned to the Meeting at 8:05pm during the consideration of this item.

C05/21-765 Tender Evaluation Report - Tree Planting

This item was dealt with earlier in the meeting.

C05/21-766 Tender Evaluation Report - Tree Services Panel Contract

This item was dealt with earlier in the meeting.

C05/21-767 Questions on Notice - Submitted by Councillor Lake

Note: Council received the answers to these questions as published in the Business Paper for this Ordinary Council Meeting (19 May 2021).

Min.1161 Closed Session

Resolved (Sarkis/Attie)

At this stage of the meeting being 8:31pm, the Mayor advised that in accordance with Section 10a of the *Local Government Act 1993* the meeting would move into Closed Session, with the members of the press and public excluded from the closed session and access to the correspondence and reports relating to the items considered during the course of the closed session being withheld. This action was taken as the items listed were within the following provisions under Section 10a of the *Local Government Act*:-

(2) The matters and information are the following:

- (d) commercial information of a confidential nature that would, if disclosed,*
- (i) prejudice the commercial position of the person who supplied it,*
- (ii) confer a commercial advantage on a competitor of the council,*
- (iii) reveal a trade secret.*

Min.1162 Open Session

Resolved (Sarkis/Attie)

Council returned to Open Session at 9:16pm to resolve the below Confidential Items:

C05/21-764 Notice of Motion - Productivity Improvements

C05/21-749 Process for the Recruitment of the Position of General Manager

C05/21-764 Notice of Motion - Productivity Improvements

This item was withdrawn.

Min.1163 C05/21-749 Process for the Recruitment of the Position of General Manager

Note: The Acting General Manager, Peter Fitzgerald declared a pecuniary interest in this item as it relates to the role he is currently employed in and may be a potential applicant for, and exited the Chamber at 8:51pm during the consideration of this item and returned to the chamber following the consideration of this item at 9:14pm.

Resolved (Attie/Sarkis)

That Council:

1. Engage Mr Gareth Broadrick of Capstone Recruitment to facilitate the process of recruitment for a new General Manager as per the terms outlined in the attached proposal; and
2. Delegate the Mayor to form the selection panel and work with Mr Broadrick to conduct this recruitment process pursuant to the requirements of the Local Government Act 1993 and the Guidelines for the Appointment and Oversight of General Managers.

The Motion moved by Councillor Attie seconded by Councillor Sarkis on being Put was declared CARRIED on the casting vote of the Mayor.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Attie, Christou, Garrard, Rahme, Sarkis, Zaiter and Zreika.

Councillor(s) Against the Motion: Campbell, Cummings, Elmore, Hamed, Huang, Lake and Saha.

The Mayor, Councillor Christou closed the meeting at 9:15pm.

Chairperson _____ Acting General Manager _____

Item No: C05/21-756

2 PERCY STREET, AUBURN - DRAFT VOLUNTARY PLANNING AGREEMENT

Responsible Division: Environment & Planning
Officer: Director Environment & Planning
File Number: PP2017/2
Community Strategic Plan Goal: *A resilient built environment*

SUMMARY

As part of a Planning Proposal for the introduction of an education establishment at 2 Percy Street, Auburn, a public benefit offer was endorsed by Council. Following the gazettal of the Planning Proposal, a State Significant Development (SSD) application for the school was approved by the Department of Planning, Industry and Environment. As part of the approval conditions, a Voluntary Planning Agreement is to be prepared and executed in accordance with the public benefit offer endorsed by Council.

Based on Council's support for the public benefit offer and consistent with the SSD approval, a draft Voluntary Planning Agreement has been prepared. It is recommended that the draft Voluntary Planning Agreement be notified for a period of 28 days and, subject to no significant objections to the Agreement during public notification, delegates authority to execute the Voluntary Planning Agreement and have it registered on title.

RECOMMENDATION

That Council:

1. **Endorse that the Voluntary Planning Agreement for 2 Percy Street, Auburn, be publicly notified for a period of 28 days in accordance with statutory and policy requirements.**
2. **Endorse and delegate authority to the Mayor and Acting General Manager to execute the Voluntary Planning Agreement on behalf of Council for 2 Percy Street, Auburn, as provided in Attachment 1, subject to no significant objections on the Agreement being received during exhibition.**
3. **Note that, once the draft Voluntary Planning Agreement is executed, signed by all parties and is registered on title, a copy of the executed Voluntary Planning Agreement be forwarded to the Planning Secretary, as required by the approved State Significant Development Application.**

REPORT

Background

A planning proposal request was lodged with Council in May 2017 for 2 Percy Street, Auburn. The proposal sought to introduce an 'educational establishment' as an additional permissible use for the site by seeking an amendment to Schedule 1 of the *Auburn Local Environmental Plan 2010* (Auburn LEP 2010). In early 2018, a Gateway Determination was issued for the proposal authorising Council to proceed with exhibition.

The planning proposal was exhibited (post-Gateway) and reported to Council on 4 September 2019 for finalisation and notification. At this meeting, Council also resolved to endorse the public benefit offer, and that the preparation and execution of a Voluntary Planning Agreement for the public benefit offer be captured through the State Significant Development (SSD) application on the site.

On 29 November 2019, the *Auburn LEP 2010 (Amendment No. 28)* was notified by Department of Planning, Industry and Environment. On 27 March 2020, a State Significant Development application for the education facility on the site was approved.

Public Benefit Offer

In accordance with Council's resolution in September 2019, the public benefit offer consists of a monetary contribution of \$400,000 to be paid by proponent, in instalments to Council as per the proposed school's staging plan (Stages 2, 3A and 3B). The public benefit offer will provide funding towards the public domain and open space improvements as part of the Wyatt Park Masterplan.

State Significant Development (SSD) Application

On 27 March 2020, a SSD application (SSD-8926) was approved for the site to facilitate the occupation of the existing buildings for the use of a school in the short term (Stage 1), and to build a new three storey school with basement parking (Stage 2 and onwards) for 728 primary and secondary students and 58 full-time staff.

The SSD consent included the following condition in Part B:

Planning Agreement

B4. Prior to the issue of any construction certificate for Stage 2, a Planning Agreement must be executed between the Applicant and Cumberland Council that is in the terms of the offer made by the Applicant to Cumberland Council on 15 August 2019. A copy of the executed Planning Agreement is to be forwarded to the Planning Secretary.

Voluntary Planning Agreement

Based on Council's support for the public benefit offer and consistent with the SSD approval, a draft Voluntary Planning Agreement has been prepared (Attachment 1).

It is recommended that the draft Voluntary Planning Agreement be notified for a period of 28 days and, subject to no significant objections to the Agreement during public notification, delegates authority to execute the Voluntary Planning Agreement and have it registered on title. It is also noted that a copy of the executed Voluntary Planning Agreement, once signed by all parties and registered on title, be forwarded to the Planning Secretary, as required by the approved SSD application.

COMMUNITY ENGAGEMENT

Subject to Council endorsement, the draft Voluntary Planning Agreement will be publicly notified in accordance with statutory and policy requirements.

POLICY IMPLICATIONS

Policy implications are outlined in the main body of the report.

RISK IMPLICATIONS

There are minimal risk implications for Council associated with this report. The report's recommendation stipulates that the Voluntary Planning Agreement must be executed by both parties and registered on title prior to forwarding to the Planning Secretary.

FINANCIAL IMPLICATIONS

Financial implications for Council regarding the Voluntary Planning Agreement are outlined in the main body of the report.

CONCLUSION

Based on Council's support for the public benefit offer and consistent with the SSD approval for a school at 2 Percy Street, Auburn, a draft Voluntary Planning Agreement has been prepared. It is recommended that the draft Voluntary Planning Agreement be notified for a period of 28 days and, subject to no significant objections to the Agreement during public notification, delegates authority to execute the Voluntary Planning Agreement and have it registered on title.

ATTACHMENTS

1. Draft Voluntary Planning Agreement [↓](#)
2. Letter of Offer - 2 Percy Street, Auburn (confidential)
3. Council Report and Minutes (Sep 2019) - 2 Percy Street Auburn [↓](#)

