

## **MINUTES OF PLANNING MEETING**

Held at COUNCIL CHAMBERS, HORNSBY  
on Wednesday, 15 October, 2008  
at 6:39 pm

### **PRESENT**

Councillors Berman (Chairperson), Browne, Chopra, Evans, Hutchence, Martin, McMurdo, Mills, Russell and Smart.

NOTE: Councillor Browne arrived at the meeting at 7.59pm. He was not present for Apologies, Declarations of Interest, Confirmation of Minutes, Item 1, Items Passed by Exception and Item 3.

### **NATIONAL ANTHEM**

### **OPENING PRAYER**

Rev Neil Flower, from Ministry and Mission Consultancies, opened the Meeting in prayer.

### **ACKNOWLEDGEMENT OF RELIGIOUS DIVERSITY**

Statement by the Chairperson:

*"We recognise our Shire's rich cultural and religious diversity and we acknowledge and pay respect to the beliefs of all members of our community, regardless of creed or faith."*

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## **ABORIGINAL RECOGNITION**

Statement by the Chairperson:

*"We recognise the traditional inhabitants of the land we are meeting on tonight, the Darug and Guringai Aboriginal people, and respect is paid to their elders and their heritage."*

## **AUDIO RECORDING OF COUNCIL MEETING**

Statement by the Chairperson:

*"I advise all present that tonight's meeting is being audio recorded for the purpose of assisting in the accuracy of the Minutes. The recordings may be accessed by members of the public once the Minutes have been finalised and speakers are requested to ensure their comments are relevant to the issue at hand and refrain from making personal comments or criticisms."*

## **APOLOGIES**

RESOLVED ON THE MOTION OF COUNCILLOR EVANS, seconded by COUNCILLOR HUTCHENCE,

THAT an apology be received and accepted for the non-attendance of COUNCILLOR BROWNE.

FOR: COUNCILLORS BERMAN, EVANS, CHOPRA, HUTCHENCE, MARTIN, MCMURDO, MILLS, RUSSELL, SMART.

AGAINST: NIL.

NOTE: Subsequent to Council's acceptance of his apology, COUNCILLOR BROWNE arrived at the meeting at 7.59pm.

## **PRESENTATIONS**

Nil

## **DECLARATIONS OF INTEREST**

COUNCILLOR BERMAN declared a non-significant non-pecuniary interest in Item 5 - Report No. PLN208/08 – Development Application for Mobile Phone Tower and Equipment Shelter Galston Road, Hornsby Heights. Refer to that Item for details.

COUNCILLOR MCMURDO declared a pecuniary interest in Item 9 – Report No. PLN199/08 – Ku-Ring-Gai and Hornsby Subregional Employment Study. Refer to that Item for details.

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NOTE: At the conclusion of the Meeting COUNCILLOR SMART tabled a non-significant non-pecuniary interest in Item 5 - Report No. PLN208/08 – Development Application for Mobile Phone Tower and Equipment Shelter Galston Road, Hornsby Heights. Refer to that Item for details.

NOTE: At the conclusion of the Meeting COUNCILLOR RUSSELL tabled a non-significant non-pecuniary interest in Item 5 - Report No. PLN208/08 – Development Application for Mobile Phone Tower and Equipment Shelter Galston Road, Hornsby Heights. Refer to that Item for details.

## **CONFIRMATION OF MINUTES**

RESOLVED ON THE MOTION OF COUNCILLOR EVANS, seconded by COUNCILLOR MCMURDO,

THAT the Minutes of the Planning Meeting held on 3 September 2008 be confirmed, a copy having been distributed to all Councillors.

FOR: COUNCILLORS BERMAN, EVANS, CHOPRA, HUTCHENCE, MARTIN, MCMURDO, MILLS, RUSSELL, SMART.

AGAINST: NIL.

## **PETITIONS**

Nil.

## **MAYORAL MINUTES**

Nil.

## **NOTICES OF MOTION**

Nil.

## **MAYORAL MINUTES**

Nil.

## **NOTICES OF MOTION**

Nil.

## **RESCISSION MOTIONS**

**1 RM7/08 Rescission Motion - Mr Steven De Pasquale - Lot 8 DP 16525 (No. 56) Murray Farm Road, Beecroft - Deletion of Condition No. 16 Requiring Kerb & Gutter Construction**

**(D01000530)**

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GENERAL MANAGER

CHAIRPERSON

Mr Michael De Pasquale, of Beecroft, addressed Council regarding this item.

RESOLVED ON THE MOTION OF COUNCILLOR EVANS, seconded by COUNCILLOR HUTCHENCE,

THAT the resolution adopted at the Planning Meeting held on 20 August, 2008 in respect of Item 7, Mr Steven De Pasquale – Lot 8 DP 16525 (No. 56) Murray Farm Road, Beecroft – Deletion of Condition No. 16 Requiring Kerb & Gutter Construction namely:-

"THAT the Section 96 Application for deletion of Condition No. 16 requiring kerb and gutter construction be approved."

be, and is hereby rescinded.

FOR: COUNCILLORS BERMAN, EVANS, CHOPRA, HUTCHENCE, MARTIN, MCMURDO, MILLS, RUSSELL, SMART.

AGAINST: NIL.

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RESOLVED ON THE MOTION OF COUNCILLOR EVANS, seconded by COUNCILLOR HUTCHENCE,

THAT pursuant to Section 96 of the Environmental Planning and Assessment Act, 1979, Development Consent No. 1941/2007 for subdivision of one allotment into two, be modified as follows:

1. Deletion of condition No. 59 and replacement with new conditions as follows:-

- 59A. To ensure any work undertaken will not adversely affect the longevity of the Jacaranda street trees at the Saracen Road frontage, a qualified and experienced Arborist shall be engaged to direct all works within four metres (4m) of the trunk of any tree to be retained.
- 59B. Tree roots between 10mm and 40mm diameter, revealed during excavation, must be cut cleanly by a sharp hand saw. If tree roots greater than 40mm diameter are revealed during excavation, alternative construction techniques, such as pier and beam, are to be employed so as to limit the damage to the trees' roots.
- 59C. A reassessment of the trees, by an independent Arborist, is to occur five (5) months from the completion of the kerb and gutter works. Any tree found to have deteriorated to the condition where it is required to be removed is to be replaced, with a Jacaranda mimosifolia (Jacaranda) to be planted in the same location. Remaining stump grindings from the previous tree removal are to be removed and a suitable (safe) growing medium for the replacement tree emplaced. The pot size is to be a minimum 25 litres and the tree must be

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maintained and protected until it reaches a height of 3 metres.

FOR: COUNCILLORS BERMAN, EVANS, CHOPRA, HUTCHENCE, MARTIN,  
MCMURDO, MILLS, RUSSELL, SMART.

AGAINST: NIL.

### **MATTERS OF URGENCY**

Nil.

### **ITEMS PASSED BY EXCEPTION / CALL FOR SPEAKERS ON AGENDA ITEMS**

THE MAYOR ANNOUNCED his intention to deal with the balance of the Business Paper by the exception method and announced the items.

Items 1, 2, 3, 5, 6 and 7 were withdrawn for discussion.

RESOLVED ON THE MOTION OF COUNCILLOR EVANS, seconded by  
COUNCILLOR RUSSELL,

THAT the recommendations in respect of items 4, 8 and 9 be adopted.

FOR: COUNCILLORS BERMAN, EVANS, CHOPRA, HUTCHENCE, MARTIN,  
MCMURDO, MILLS, RUSSELL, SMART.

AGAINST: NIL.

For the sake of clarity, the above items are recorded in Agenda sequence.

*Note: Persons wishing to address Council on matters which were on the Agenda were permitted to speak, prior to the item being discussed, and their names are recorded in the Minutes in respect of that particular item.*

### **DEVELOPMENT APPLICATIONS**

#### **A WARD DEFERRED**

Nil.

#### **A WARD**

**2            PLN203/08            Development Application - Two Lot Residential Subdivision  
                 59A Telopea Street, Mount Colah**

**(D01011039)**

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This is page 5 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 15th October 2008.

GENERAL MANAGER

CHAIRPERSON

Mr Clifford Rego, of Mt Colah, addressed Council regarding this item.

RESOLVED ON THE MOTION OF COUNCILLOR RUSSELL, seconded by COUNCILLOR MCMURDO,

THAT Council adhere to its decision to refuse Development Application No. 1946/2007 for the Torrens title subdivision of one allotment into two allotments, for the following reasons:

1. Pursuant to the provisions of Section 79C(1)(a)(i) and (c) of the Environmental Planning and Assessment Act, 1979 and Hornsby Shire Local Environmental Plan 1994, the proposal does not comply with the objectives (a) and (b) of the Residential A (Low Density) zone insofar as promoting a variety of housing types compatible with a low density residential environment.
2. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, the proposed development does not comply with Clause 14 'Density' and Clause 15 'Floor Space Ratio' within the Hornsby Shire Local Environmental Plan, 1994.
3. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, the proposal does not comply with the element "*Density*" of the Residential Subdivision Development Control.
4. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, it is considered that the development would reduce housing affordability for low cost rental accommodation in the locality and would therefore have a negative social impact.
5. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, the proposal does not demonstrate that sufficient landscaped area can be provided for Lot 611 to satisfy the provisions of the Residential Subdivision Development Control Plan.
6. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, the subdivision plan does not provide adequate details regarding access to the private open space area for proposed lot 612.
7. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, the proposal would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.

FOR: COUNCILLORS BERMAN, BROWNE, EVANS, CHOPRA, HUTCHENCE, MARTIN, MCMURDO, MILLS, RUSSELL, SMART.

AGAINST: NIL

**3 PLN204/08 Development Application - Aged or Differently Abled**

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GENERAL MANAGER

CHAIRPERSON

Mr Joe Nagy, of Wahroonga, addressed Council regarding this item.  
Mr Nigel Penny, of Hornsby, addressed Council regarding this item.  
Mr Richard Ford, on behalf of the Mount Wilga Neighbourhood Group, addressed Council regarding this item.  
Rev Neil Flower, of Hornsby, addressed Council regarding this item.  
Ms Deborah Sutherland, on behalf of Auscorp Project No 1 Pty Ltd, addressed Council regarding this item.

RESOLVED ON THE MOTION OF COUNCILLOR RUSSELL, seconded by  
COUNCILLOR MCMURDO,

THAT Development Application No. DA/928/2007 at Lot 12 DP 1079875 (No. 2A) Manor Road, Hornsby be refused as the applicant has failed to demonstrate that it would not have an adverse traffic, parking, bushfire hazard and amenity impact on the neighbouring residents.

FOR: COUNCILLORS BERMAN, CHOPRA, EVANS, MARTIN, MCMURDO,  
RUSSELL, AND SMART.

AGAINST: COUNCILLORS HUTCHENCE AND MILLS.

NOTE: A Rescission Motion in respect of this Item was lodged prior to finalisation of these Minutes. The Rescission Motion will be considered by Council at the 5 November 2008 Planning Meeting.

AT THIS POINT IN THE MEETING (7.52PM) THE MAYOR ADJOURNED THE MEETING. THE MEETING RESUMED AT 7.55PM.

**4 PLN205/08 Development Application - Section 96(2) - To replace self care units with hostel units , 301 - 305 Galston Road, Galson**

RESOLVED ON THE MOTION OF COUNCILLOR EVANS, seconded by COUNCILLOR RUSSELL,

THAT Development Application No. 276/1983/N at Lot 1 and Lot 2 DP 713848, (Nos. 301 - 305) Galston Road, Galston be approved subject to the following conditions:

**Amendment to the description of the proposal:**

*“A Retirement complex consisting up to 200 self contained aged persons units, 66 hostel type service units and 30 – 34 bed nursing home”*

**Addition of the following conditions:**

**Approved Plans and Supporting Documentation (applicable to all stages)**

11. The development must be carried out in accordance with the following plans and documentation listed below and endorsed with Council’s stamp, except where amended by other conditions of this consent:

| <i>Plan No.</i>   | <i>Drawn by</i>                     | <i>Dated</i>  |
|---|-------------------------------------|---------------|
| General Notes and site plan Dwg No. 100 Rev A               | Humel Architects Pty Ltd            | December 2007 |
| Survey Plan   | Barry Hunt Associates               | 15/05/2007    |
| Soil Erosion and Sediment Control Details Dwg No. 101 Rev A | Humel Architects Pty Ltd            | December 2007 |
| Site floor Plan Dwg No. 103 Rev A                           | Humel Architects Pty Ltd            | December 2007 |
| Site floor Plan Dwg No. 104 Rev A                           | Humel Architects Pty Ltd            | December 2007 |
| Site floor Plan Dwg No. 105 Rev A                           | Humel Architects Pty Ltd            | December 2007 |
| Site floor Plan Dwg No. 106 Rev A                           | Humel Architects Pty Ltd            | December 2007 |
| Foundation Level Plan Dwg No. 108 Rev A                     | Humel Architects Pty Ltd            | December 2007 |
| Level 1 floor Plan PlanDwg No. 109 Rev A                    | Humel Architects Pty Ltd            | December 2007 |
| Level 2 floor Plan PlanDwg No. 110 Rev A                    | Humel Architects Pty Ltd            | December 2007 |
| Level 3 floor Plan PlanDwg No. 111 Rev A                    | Humel Architects Pty Ltd            | December 2007 |
| Roof Plan Plan Dwg No. 112 Rev A                            | Humel Architects Pty Ltd            | December 2007 |
| Elevations North and South and section AA Dwg No 113 Rev A  | Humel Architects Pty Ltd            | December 2007 |
| Elevations East and West and section B-B Dwg No. 114 Rev-A  | Humel Architects Pty Ltd            | December 2007 |
| Typical hostel room details Dwg. No 118 Rev-A               | Humel Architects Pty Ltd            | December 2007 |
| Stormwater Drainage Plans 207079-H01                        | Niven Donnelly and Partners Pty Ltd | 7/02/2007     |
| Stormwater Drainage Plans 207079-H02                        | Niven Donnelly and Partners Pty Ltd | 7/02/2007     |

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|   |                                       |            |
|---|---------------------------------------|------------|
| Landscape Plan 537.01 rev C               | Tramonte Jensen                       | 6/08/2008  |
| Landscape Plan 537.02                     | Tramonte Jensen                       | 4/12/2007  |
| Landscape Plan 537.03                     | Tramonte Jensen                       | 4/12/2007  |
| Schedule of Finishes                      | Humel Architects Pty Ltd              | 18/09/2007 |
| Statement of Disability Access Provisions | Disability Access Consultants Pty Ltd | 10/12/2007 |

### **Building Code of Australia**

12. All building work must be carried out in accordance with the requirements of the *Building Code of Australia*.
13. Should there be any alternative solutions listed as Category 2 Fire Safety Provisions and outlined in the Environmental Planning and Assessment Regulation 2000, a fire engineering report should be forwarded to the Brigades for comment under Clause 144 of the Environmental Planning and Assessment Regulation 2000.
14. The modified development approved under DA/276/1983/N shall result in the total number of units on site being in accordance with the following:
  - The total number of self-care units within the site will not exceed 200
  - The total number of hostels units within the site will not exceed 66
  - The total number of nursing home beds provided on site will not exceed 34
15. The modified development approved under DA/276/1983/M shall to comply with the Statement of Disability Provisions prepared by Disability Access Consultants Pty Limited dated 10 December 2007. The details and recommendations contained within the report must be incorporated into the amended construction certificate plans.
16. An Integrated Vegetation Management Plan that incorporates the requirements of both bushfire protection and the conservation of the endangered Sydney Turpentine Ironbark Forest is to be jointly prepared by a qualified bushfire management expert and a qualified ecological/bush regeneration expert to the satisfaction of Council and the Rural Fire Service. The plan shall be submitted to both Council and the Rural Fire Service for approval prior to the accredited certifier issuing a construction certificate. The integrated plan shall include the following.
  - a) Outline management strategies to maintain the Inner Protection Area extending 10 metres into the Sydney Turpentine Ironbark Forest from the road. No clearing or disturbance is to occur within 5 metres of the watercourse, except for weed removal. Significant indigenous trees should be retained;
  - b) Outline management strategies to maintain the Outer Protection Area in a way that does not degrade the conservation value of the Sydney Turpentine Ironbark Forest remnant. The following management strategies are to be included:
    - (i) Undertake hazard reduction burns in accordance with the ecological fire

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- regime for Sydney Turpentine Ironbark Forest;
- (ii) Target removal of weeds and exotic vegetation and dense stands of *Pittosporum* (*Pittosporum undulatum*). Native vegetation should be retained; and
  - (iii) Hand removal of accumulated ground fuels.
- c) Provide strategies for the on-going management of the Sydney Turpentine Ironbark Forest including weed removal using qualified and experienced bush regenerator.
  - d) Provide suitable conservation and protection measures to ensure the long-term conservation of the Sydney Turpentine Ironbark Forest and native flora and fauna habitat.
  - e) Provide suitable plan showing the Inner and Outer Protection Areas and the existing and approved buildings.
17. To protect the adjoining Sydney Turpentine Ironbark Forest remnants including the stand of trees east of the building area and the bushland along the watercourse on the opposite side of the road from potential damage during construction works the applicant is to ensure that a temporary protective 1.5 to 1.8 metre high fence shall be erected along the boundary of the development site, prior to commencement of works to protect the Sydney Turpentine Ironbark Forest remnant.
18. To protect the bushland and retained trees from the effects of building materials, sedimentation and erosion from development sites the applicant will ensure that no filling of soil and no stockpiling of building materials is to occur within 4 metres of the adjacent bushland or retained trees for the duration of the on-site works.
19. No machines or heavy vehicle is permitted within the retained stand of Sydney Turpentine Ironbark Forest trees on the eastern side of the approved development footprint.
20. To ensure that the Asset Protection Zone requiring treatment is clearly defined as an area separate to retained native vegetation, the boundary of the Asset Protection Zone for bushfire protection shall be marked with permanent fire resistant stakes to prevent the on-going fuel reduction activities from encroaching into the core area of the Sydney Turpentine Ironbark Forest remnant and the riparian zone along the watercourse.
21. To ensure that invasive plants and noxious weeds are effectively controlled from spreading into the adjoining Sydney Turpentine Ironbark Forest remnant all environmental and noxious weeds including are to be removed and suppressed using an appropriate bush regeneration methods. Weeds within the approved Asset Protection Zones shall be controlled in accordance with the approved Integrated Vegetation Management Plan.
22. Landscaping is to be primarily composed of locally occurring native species, as listed in the Hornsby Council planting guide, *Indigenous Plants for the Bushland Shire*, available at Council or on Council's web site: [www.hornsby.nsw.gov.au](http://www.hornsby.nsw.gov.au). Landscape

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plants must be non-invasive and not have the potential to spread into the surrounding bushland.

23. To compensate for the removal of Sydney Turpentine Ironbark Forest trees as a result of the development the applicant shall ensure that seed is collected from all indigenous trees within the approved building footprint prior to their removal. This shall be undertaken by a qualified arborist or native seed collecting company engaged by the Applicant. The seed shall be donated to the Hornsby Shire Community Nursery located at Pennant Hills, via Council's Bushland and Biodiversity Management Team, for propagation and future replanting within the Roland Retirement Village and in the local area. Documentation demonstrating this commitment shall be submitted to Council's Bushland and Biodiversity Management Team for approval prior to the issue of the amended Construction Certificate.
24. A minimum five (5) metre setback must be provided from all wastewater irrigation disposal areas to bushland.
25. All wastewater generated by the proposed development must be treated and disposed of in accordance with the site capability and system design report prepared by Cardno, Version 2, Lisle Butler dated 15 June 2008 and amended plans for Proposed Irrigation Fields prepared by Cardno dated 8 August 2008.
26. The applicant shall protect overland flow paths, drains, adjoining land and downstream water quality from sedimentation. Accordingly, sediment and erosion control measures must be implemented prior to excavation, and maintained during construction.
27. The following sediment control measures are required to be provided in conjunction with the Site Plan and Soil Erosion and Sediment Control Details prepared by Humel Architects Pty Ltd dated December 2007:

All runoff and erosion controls are to be installed before any works are carried out at the site.

- a) All contaminated surface waters and debris from the site must be screened, collected and pollutants captured within the site.
- b) Stormwater kerb inlets and drains receiving stormwater must be protected at all times during work on site.
- c) Movement of water must be controlled by diverting upslope clean surface runoff (via diversion drains and sediment fencing) around the disturbed areas.
- d) Contamination of surface waters on downslope lands must be mitigated by installing sediment control fences downslope of the disturbed areas to capture sediment and debris escaping from the site.
- e) Geofabric sediment fencing must be installed parallel to the proposed works or along the natural contours of the site.
- f) Sediment fencing must be secured by post (where metal star pickets are used, plastic safety caps shall be used) at two-metre intervals with the geotextile fabric embedded at 200 mm in soil. One metre returns must be installed at twenty-metre intervals along the sediment fencing.

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- g) Topsoil stockpiling stripped from the construction site must be diverted away from drainage lines and stormwater inlets, be suitably covered by impervious membrane material and screened by sediment fencing.
- h) Driveway access paths must be stabilised with needle-punched geotextile covered by a minimum 150mm thick layer of coarse gravel, aggregate, or recycled crushed concrete.
- i) Kerb inlet sediment traps are to be installed downslope of the site to facilitate the capture of sediment.
- j) Street sweeping must be undertaken as required along Galston Road during and after excavation and construction until the site is fully established.
- k) Turfed nature strip areas adjacent to the kerb of the lots under construction shall remain undisturbed during the construction phase.
- l) Erosion and sediment control measures must be maintained in good working order, and be repaired or replaced throughout the course of works on site.
- m) Sediment and erosion controls must be inspected weekly or after each storm event for litter, sediment, and organic waste accumulation. All sediment/debris shall be removed within two (2) working days or when reached 40% capacity.
- n) Disturbed areas must be rehabilitated and landscaped with preferably indigenous plant species or other suitable approved stabilising processes within fifteen days of the completion of works.

28. All landscape works shall also meet the minimum construction standards identified in the Hornsby Shire Council Landscape Code for Development Applications including the construction of mulched planter beds, planting of trees in minimum 25 litre pot sizes, shrubs in minimum 5 litre pot sizes and groundcovers in minimum 150mm pot sizes in the densities identified in the submitted planting specification.

#### **Construction Certificate – Engineering Works**

29. An amended construction certificate must be obtained from either Council or an Accredited Certifier. Engineering design plans and specifications are to be prepared by a chartered professional engineer for any proposed works. The plans and specifications are to be in accordance with development consent conditions, appropriate Australian standards, and applicable Council standards, in particular “Hornsby Shire Council Civil Works - Design and Construction Specification” Information required to be submitted with a construction certificate is as follows:
- a) copies of compliance certificates relied upon
  - b) Four (4) copies of the detailed engineering plans in accordance Hornsby Shire Council's Civil Works - Design Specification 1999. The detailed plans may include but are not limited to the earthworks, roadworks, road pavements, road furnishings, stormwater drainage, landscaping and erosion control works.
  - c) Hornsby Shire Council's approval for the existing roadworks and public drainage is required prior to the issuing of a construction certificate for these works.

#### **Engineering Works**

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30. All engineering works required by this must be designed and undertaken in accordance with the relevant aspects of the following documents, except as otherwise authorised by this consent. A Construction Certificate is to be obtained prior to commencement of works.
- a) Australian Rainfall and Run-Off 1987
  - b) Hornsby Shire Council's Design and Construction Specifications 1999
31. A tree retention plan is to be included with any construction certificate application indicating:
- a) trees to be retained
  - b) all areas left undisturbed that are to be cordoned off from construction works.

### **Inspections - Engineering**

32. All engineering work required by the consent must be inspected at the "hold points" as nominated in the Hornsby Shire Council Civil Works Construction Specifications 1999. Certificates shall be issued prior to occupancy confirming that the works comply with development consent, construction certificate and Hornsby Shire Council Civil Works - Design and Construction Specification.

### **Drainage**

33. The drainage system to control all collected roof and surface stormwater shall be designed to satisfactorily drain rainfall intensities for an average recurrence interval of 20 years. The design shall:
- a) be in accordance with Hornsby Shire Council - Design Specification and Australian / New Zealand Standard 3500.3
  - b) all stormwater shall be discharged to the natural watercourse at the north eastern corner of the development in a manner that will not cause soil erosion (energy to be dissipated).
34. Proposed parking facilities shall be provided in accordance with the Australian Standard AS2890.1.

### **Sediment & Erosion Control**

35. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site. The controls are to be designed and installed in accordance with the requirements of Landcom's "Managing Urban Stormwater: Soils and Construction", Volume 1, 4<sup>th</sup> Edition, March 2004, (the Blue Book), and Hornsby Shire Council's "Sustainable Water Best Practices" manual and shall:-
- be effectively maintained at all times during the course of works and shall not be removed until the site has been stabilised or landscaped to the Principal

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Certifying Authority's satisfaction.

- include adequate measures to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
- ensure that no spoil or fill encroaches upon adjacent bushland for the duration of the works.
- ensure disturbed areas are rehabilitated with indigenous plant species, landscaped and treated by approved methods of erosion mitigation such as, mulching, and revegetation with native grasses or other suitable stabilising processes within fifteen days of the completion of works.

### **Hours of Demolition Works**

36. All demolition work is to be carried out in accordance with the applicable provisions of Australian Standard 2601-2001 'The Demolition of Structures'.
37. In order to maintain the amenity of adjoining properties, demolition works shall be restricted to between 7.00 am and 6.00 pm. No demolition works are to be undertaken on Saturdays, Sundays or Public Holidays. Plant, goods or materials shall not be delivered to the site outside the approved hours of site works unless written Council gives consent.

### **Demolition**

38. All demolition work is to be carried out in accordance with the applicable provisions of Australian Standard 2601-2001 'The Demolition of Structures'.

### **Dust Control**

39. Measures to prevent the emission of dust or other impurities into the surrounding environment are to be implemented during demolition works.

### **Signs for Construction Sites**

40. On-site signage is required to clearly identify the PCA and the principal contractor (the coordinator of the building work) pursuant to the *Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003*, s157(1)(c1), Cl 98A, 136C & 227A.

### **Hours of Construction**

41. In order to maintain the amenity of adjoining properties, site works shall be restricted to between 7.00 am and 6.00 pm, Monday to Friday and 8.00 am to 1.00 pm Saturday. No work shall be undertaken on Sundays or public holidays. Plant, goods or materials shall not be delivered to the site outside the approved hours of site works unless otherwise approved by Council.

### **Fire Safety Certificate – Final**

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42. In accordance with Part 9, Division 4 of the Environmental Planning & Assessment Regulation, 2000, the owner of the building must, on completion of the building, provide Council with a certificate in relation to each essential fire safety or other safety measure implemented in the building.

#### **Fire Safety Statement - Annual**

43. In accordance with Part 9, Division 5 of the Environmental Planning & Assessment Regulation, 2000, at least once in each period of 12 months after the date of the first fire safety certificate, the owner shall provide Council with a further certificate in relation to each essential service installed in the building.

#### **Occupation**

44. The approved development must not be occupied or the use must not commence until an occupation certificate has been issued in accordance with Sections 109C and 109H of the Environmental Planning & Assessment Act, 1979.

#### **Asset Protection Zone**

45. At the commencement of building works the following asset protection zones shall be provided and maintained as outlined in the Landscape Plan – bushfire protection prepared by Tramonte Jensen numbered 537.01 and dated 05.08.2008
- a) The inner protection area shall be 20 metres wide, restricted to within 10 metres of the road and taper to within 5 metres of the creek in the southwest and the community hall in the north
  - b) The outer protection area shall extend from the inner protection area, southwest for a distance of 45 metres, to the 5 metre buffer along the creek. From there it shall taper to within 20 metres of the road in line with the office car park to the north.

#### **Design and Construction**

46. New construction shall comply with Australian Standard AS3959-1999 '*Construction of buildings in bush fire-prone areas*' Level 1.

FOR: COUNCILLORS BERMAN, EVANS, CHOPRA, HUTCHENCE, MARTIN,  
MCMURDO, MILLS, RUSSELL, SMART.

AGAINST: NIL.

**5 PLN208/08 Development Application for Mobile Phone Tower and  
Equipment Shelter  
Galston Road, Hornsby Heights**

**(D01012997)**

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GENERAL MANAGER

CHAIRPERSON

NOTE: COUNCILLOR BERMAN declared a non-significant non-pecuniary interest in this item under Clause 51A of Council's Code of Meeting Practice (see Declarations of Interest in these Minutes). As stated on the Declaration of Interest form by COUNCILLOR BERMAN, the nature of the interest was "A number of people interested in this matter are known to me, live close to where I live and have made representations to me about this", and the explanation of why the interest does not require further action in the circumstances was "The nature of interest does not compel me to vote a certain way". COUNCILLOR BERMAN remained present for discussion and voting on the item.

NOTE: At the conclusion of the Meeting, COUNCILLOR SMART tabled a non-significant non-pecuniary interest in this item under Clause 51A of Council's Code of Meeting Practice (see Declarations of Interest in these Minutes). As stated on the Declaration of Interest form by COUNCILLOR SMART, the nature of the interest was "2 speakers on this item also handed out my how to votes at Hornsby North", and the explanation of why the interest does not require further action in the circumstances was "This interest will not encourage my vote in any way". COUNCILLOR SMART remained present for discussion and voting on the item.

NOTE: At the conclusion of the Meeting, COUNCILLOR RUSSELL tabled a non significant non-pecuniary interest in this item under Clause 51A of Council's Code of Meeting Practice (see Declarations of Interest in these Minutes). As stated on the Declaration of Interest form by COUNCILLOR RUSSELL, the nature of the interest was "2 speakers tonight helped on a polling booth in this recent Council election on my behalf", and the explanation of why the interest does not require further action in the circumstances was "The nature of the interest does not compel me to vote either way". COUNCILLOR RUSSELL remained present for discussion and voting on the item.

Mr Jack Condren, on behalf of Hornsby North Public School, addressed Council regarding this item.

Mr Steven Vandertouw of Hornsby Heights, addressed Council regarding this item.

Ms Sylvana Vandertouw, of Hornsby Heights, addressed Council regarding this item.

Mrs Verlaine Timms, of Berowra Heights, addressed Council regarding this item.

Ms Lara Hibbard, of Hornsby, addressed Council regarding this item.

Mr Joe Nagy, of Wahroonga, addressed Council regarding this item.

Ms Kylie Edwards, of Hornsby Heights, addressed Council regarding this item.

Ms Jane Condren, of Hornsby Heights, addressed Council regarding this item.

Ms Veronica Nugent, of Hornsby Heights, addressed Council regarding this item.

Mr Robert Hibbard, of Hornsby, addressed Council regarding this item.

Mr Brendan Clarke, of Hornsby Heights, addressed Council regarding this item.

Dr Douglas Howe, Hornsby Heights, addressed Council regarding this item.

Mr Alan Torrens, of Hornsby, addressed Council regarding this item.

Ms K Fitzsimons, of Hornsby Heights, addressed Council regarding this item.

Ms Jacqueline Crompton, on behalf of Telstra, addressed Council regarding this item.

RESOLVED ON THE MOTION OF COUNCILLOR MILLS, seconded by COUNCILLOR EVANS,

THAT

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This is page 16 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 15th October 2008.

GENERAL MANAGER

CHAIRPERSON



1. Council approve DA/1931/2007 for the “Installation of a mobile phone tower and associated equipment shelter” at Rofe Park, 100X Galston Road, Hornsby Heights
2. By close of business on Thursday 16 October 2008, the General Manager publicly release the confidential legal advice that Council has received regarding Council's likelihood of success in the Land and Environment Court if it were to refuse the development application by placing the advice on Council's web site.
3. Council writes to Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy and to Senator the Hon Nick Minchin, Shadow Minister for Broadband, Communications and the Digital Economy, advising of Council's considerable concerns with the current provisions of the 'Telecommunications Act 1997' and the 'Telecommunications Code of Practice 1997', which do not allow councils to establish controls relating to exclusion zones for telecommunications facilities around sensitive land uses such as schools, child care centres and hospitals and to the inability of local communities to reject telecommunications facilities of this nature.
4. Telstra be requested to take EME readings at Hornsby North Public School before the towers are erected while mobile phones are in use, and then again after they are erected, also while mobile phones are in use, and report their findings to Council.

FOR: COUNCILLORS BROWNE, CHOPRA, EVANS, HUTCHENCE, MILLS  
AND RUSSELL

AGAINST: COUNCILLORS BERMAN, MARTIN, MCMURDO AND SMART

**B WARD DEFERRED**

Nil.

**B WARD**

- 6 **PLN196/08 Development Application - Alterations to building and subdivision into 25 units, 293 -299 Pennant Hills Road Thornleigh**

**(D01005394)**

Mr Richard Zeaiter, of Thornleigh, addressed Council regarding this item.  
Mr Walter Gordon, of Sydney, addressed Council regarding this item.

RESOLVED ON THE MOTION OF COUNCILLOR EVANS, seconded by COUNCILLOR MILLS,

THAT Development Application No. 930/2008 at Lot 27, DP 263535, Lot 1 DP 1122268 Nos. 293-299 Pennant Hills Road Thornleigh be approved subject to the following conditions:

### **Approved Plans and Supporting Documentation**

1. The development must be carried out in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

| <i><b>Plan No.</b></i>                               | <i><b>Drawn by</b></i> | <i><b>Dated</b></i> |
|--|------------------------|---------------------|
| A-201-GR Ground Floor Plan                           | Meriton                | 10/7/2008           |
| A-201-L01 Level 01 Floor Plan                        | Meriton                | 10/7/2008           |
| A-201-ELEV Elevations                                | Meriton                | 10/7/2008           |
| Strata Plan Form 2 - Car Parking Level 1(as amended) | Wayne Allen Diver Tuck | 8/7/2008            |
| Strata Plan Form 2 – Car Parking Level 2             | Wayne Allen Diver Tuck | 8/7/2008            |
| Strata Plan Form 2 – Ground Level                    | Wayne Allen Diver Tuck | 8/7/2008            |
| Strata Plan Form 2 – Level 1                         | Wayne Allen Diver Tuck | 8/7/2008            |

| <i><b>Document No.</b></i>         | <i><b>Prepared by</b></i> | <i><b>Dated</b></i> |
|------------------------------------|---------------------------|---------------------|
| Statement of Environmental Effects | Meriton                   | July 2008           |

2. A Positive Covenant, under Section 88B of the Conveyancing Act 1919, is created, for the provision of and on going maintenance of ten (10) public parking spaces within common property, as indicated on the revised strata plans, for use by the public anytime between the hours of 7:00am to 7:00pm Monday to Friday everyday, except public holidays. All other car parking spaces are to be allocated to individual units, at a ratio commensurate to the size of individual units.
3. The pedestrian access from the basement car park to the premises at No. 293 Pennant Hills Road is to be clearly marked as such and physically separated from the adjacent accessway to the loading dock by the construction of a railing or similar between the two access routes prior to release of the Subdivision Certificate.
4. The loading dock and access from Station Street is to be solely used for truck and van access and shall only operate between 8am and 6pm Monday to Friday and between 9am and 1pm on Saturday. At all other times, the loading dock shall be locked by a gate at the entrance to the site from Station Street which prevents vehicular access onto that part of the site. The gate shall be installed to Council's satisfaction prior to

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the commencement of any other works under this consent.

5. The loading dock and access driveway from Station Street are to be sign posted 'No Parking' and 'No Smoking' zones. The signage is to be erected prior to the commencement of any other works.
6. In order to maintain amenity to adjoining residences, the hours of use of each of the strata units shall be restricted to those times listed below:

|                    |                   |
|--------------------|-------------------|
| Monday - Wednesday | 7.00am to 7.00pm  |
| Thursday – Friday  | 7.00am to 9.00pm  |
| Saturday           | 8.30am to 6.00pm  |
| Sunday             | 10.00am to 5.00pm |
7. In order to maintain privacy to adjoining dwellings, the windows proposed on the eastern elevation of the building are to be fitted with screens to Council's written satisfaction, to prevent overlooking,, prior to release of the subdivision certificate.
8. The existing fence separating the loading dock and driveway from the adjoining properties to the east is to be fitted with solid panels to a height of 1.8 metres along the entire length of the loading dock and driveway, in order to prevent overlooking into the adjacent residential private open space from vehicles utilising the driveway and loading dock.

### **Building Code of Australia**

9. All building work must be carried out in accordance with the requirements of the *Building Code of Australia*.

Should there be any alternative solutions listed as Category 2 Fire Safety Provisions and outlined in the Environmental Planning and Assessment Regulation 2000, a fire engineering report should be forwarded to the Brigades for comment under Clause 144 of the Environmental Planning and Assessment Regulation 2000.

### **Council Property**

10. The land and adjoining areas are to be kept in a clean and tidy condition at all times. Litter and rubbish shall be placed in containers and removed from the site. A waste storage container is to be provided at the commencement of the building work.
11. The cost of repairing any damage caused to Council's assets as a result of construction works associated with the approved development is to be met in full by the applicant/developer prior to the issue of a subdivision certificate.

### **Signs for Construction Sites**

12. On-site signage is required to clearly identify the PCA and the principal contractor (the coordinator of the building work) pursuant to the *Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003*, s157(1)(c1), Cl 98A, 136C & 227A.

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### **Hours of Construction**

13. In order to maintain the amenity of adjoining properties, site works shall be restricted to between 7.00 am and 6.00 pm, Monday to Friday and 8.00 am to 1.00 pm Saturday. No work shall be undertaken on Sundays or public holidays. Plant, goods or materials shall not be delivered to the site outside the approved hours of site works unless otherwise approved by Council.

### **Protection of Public Places**

14. If the construction works causes pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, a fence must be erected between the building premises and the public place. The fence must be at least 1.8m high of chainwire and galvanised pipe construction. Welded wire reinforcing fabric is not to be used.

If the construction works will cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient or unsafe, or the works involve the enclosure of a public place, a hoarding must be erected between the building premises and the public place. The erection of any hoarding and temporary awnings requires separate approval under the Local Government Act, 1993.

15. The work site is to be kept lit between sunset and sunrise if it is likely to be a source of danger to persons using a public place or upon instruction by Council to enhance the safety and security of the area in which the work is located.

### **Fire Safety Certificate – Final**

16. In accordance with Part 9, Division 4 of the Environmental Planning & Assessment Regulation, 2000, the owner of the building must, on completion of the building, provide Council with a certificate in relation to each essential fire safety or other safety measure implemented in the building.

### **Fire Safety Statement - Annual**

17. In accordance with Part 9, Division 5 of the Environmental Planning & Assessment Regulation, 2000, at least once in each period of 12 months after the date of the first fire safety certificate, the owner shall provide Council with a further certificate in relation to each essential service installed in the building.

FOR: COUNCILLORS BERMAN, BROWNE, EVANS, CHOPRA, HUTCHENCE, MARTIN, MCMURDO, MILLS, RUSSELL, SMART.

AGAINST: NIL

### **C WARD DEFERRED**

Nil.

### **C WARD**

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Mr Peter May, of Epping, addressed Council regarding this item.  
Ms Judy del Epine, of Epping, addressed Council regarding this item.  
Ms I May, of Epping, addressed Council regarding this item.  
Mr John Aquilina, of Carlingford, addressed Council regarding this item.  
Mr Pascal del Epine, of Epping, addressed Council regarding this item.

MOVED ON THE MOTION OF COUNCILLOR HUTCHENCE, seconded by  
COUNCILLOR MILLS,

THAT Development Application No. 582/2008 at Lot 3 DP 8346 (No. 96) Ray Road Epping  
be refused.

A FORESHADOWED MOTION WAS MOVED BY COUNCILLOR EVANS,

THAT

A. Development Application No. 582/2008 at Lot 3 DP 8346 (No. 96) Ray Road Epping  
be approved subject to the following conditions:

**Approved Plans and Supporting Documentation**

1. The development must be carried out in accordance with the following plans  
and documentation listed below and endorsed with Council's stamp, except  
where amended by other conditions of this consent:

| <i>Plan No.</i>                   | <i>Drawn by</i>          | <i>Dated</i> |
|-----------------------------------|--------------------------|--------------|
| 2/6 Site Plan / Ground Floor Plan | SB Design                | 11-08-2008   |
| 3/6 First Floor Plan / Roof Plan  | SB design                | 11-08-2008   |
| 4/6 Elevations & Sections         | SB Design                | 11-08-2008   |
| 5/6 Elevations & Sections         | SB Design                | 11-08-2008   |
| Landscape Plan                    | RFA Landscape Architects | 19-08-2008   |

*Note: This development consent does not provide for any signage. A separate  
development application shall be submitted for the child care centre.*

2. The child care centre shall have a maximum of 48 places in the following  
groups.
  - 0 – 2 years: 15 places
  - 2 – 3 years: 16 places
  - 3 – 6 years: 17 places
3. The hours of operation of the centre are restricted to weekdays between  
7.00am and 6.00pm .
4. The materials and colours to be used in the construction shall be in accordance  
with the samples submitted to Council (Reference No. D00911778).

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15th October 2008.

5. The driveways and car parking area shall be in coloured concrete or similar treatment to minimise visual impact and to complement the landscaping of the development.
6. The proposed bin storage at the frontage shall be deleted and replaced with landscaping generally in accordance with the landscape plan for the area at the frontage.

A suitable bin storage area shall be provided adjacent to car parking space No. 10 and the pedestrian pathway.
7. The development shall operate in accordance with all recommendations in the acoustic report prepared by *RSA Acoustics* dated April 2008 accompanying the application which requires specialised acoustic treatment of the building and/or the way in which the use is to operate and the following:
  - i) The acoustic fencing on the eastern side of the car park shall be of masonry construction, 1.8 metres high and not forward of the building alignment on the adjoining property, as illustrated on the approved plans;
  - ii) A maximum of 20 children shall occupy the outdoor play area at any one time;
  - iii) No amplified music, sirens, whistles or other mechanical device that mechanically increases noise levels shall be used in the outdoor play area;
  - iv) Details of the name and contact number of the on-site manager shall be provided to adjoining and nearby neighbours to contact the centre in the event that excessive noise is being generated by the centre;
  - v) A 1.8 metre high lapped and capped timber fence shall be constructed along the side and rear property boundaries of the property at the sole cost of the applicant;
  - vi) All noise generated by the proposed development is to be attenuated to prevent levels of noise being emitted to adjacent premises which possess tonal, beating and similar characteristics or which exceeds background noise levels by more than 5dB(A).
8. The hot water system for the development shall have an energy efficiency rating of not less than 3.5 stars.
9. Documentary evidence (ie. tipping dockets/receipts from transfer stations and landfills) shall be submitted to Council or the principal certifier to confirm compliance with the Waste Management Plan lodged with the development application.
10. To minimise waste, appropriate project management techniques shall be employed in accordance with Section C1.01 of the Hornsby Shire Council Waste Minimisation and Management Guide.

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### **Building Code of Australia**

11. All building work must be carried out in accordance with the requirements of the *Building Code of Australia*.
12. The land and adjoining areas are to be kept in a clean and tidy condition at all times. Litter and rubbish shall be placed in containers and removed from the site. A waste storage container is to be provided at the commencement of the building work.
13. The cost of repairing any damage caused to Council's assets as a result of construction works associated with the approved development is to be met in full by the applicant/developer prior to the issue of a subdivision certificate.

### **Sediment & Erosion Control**

14. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site. The controls are to be designed and installed in accordance with the requirements of Landcom's "Managing Urban Stormwater: Soils and Construction", Volume 1, 4<sup>th</sup> Edition, March 2004, (the Blue Book), and Hornsby Shire Council's "Sustainable Water Best Practices" manual and shall:-
  - i) be effectively maintained at all times during the course of works and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.
  - ii) include adequate measures to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
  - iii) ensure disturbed areas are rehabilitated with indigenous plant species, landscaped and treated by approved methods of erosion mitigation such as, mulching, and revegetation with native grasses or other suitable stabilising processes within fifteen days of the completion of works.

### **Hours of Demolition Works**

15. In order to maintain the amenity of adjoining properties, demolition works shall be restricted to between 7.00 am and 6.00 pm. No demolition works are to be undertaken on Saturdays, Sundays or Public Holidays. Plant, goods or materials shall not be delivered to the site outside the approved hours of site works unless written Council gives consent.

### **Demolition**

16. All demolition work is to be carried out in accordance with the applicable provisions of *Australian Standard 2601-2001 'The Demolition of Structures'*.

A sign must be erected in a prominent position on the premises, on which the



demolition of a building is being carried out, stating that unauthorised entry to the premises is prohibited and showing the name of the builder or other person in control of the premises and a telephone number at which the builder or other person may be contacted during and outside work hours. The sign is to be removed when the demolition of the building has been completed.

*Note: Applicants are reminded that WorkCover NSW requires all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications.*

### **Asbestos Removal**

17. The following conditions shall be complied with regarding asbestos:
- i) Prior to commencement of any work involving the demolition, alteration or addition to any building on the development site, a survey is to be conducted by a competent person to ascertain whether any asbestos materials exist thereon. Asbestos material means any material that contains asbestos.
  - ii) Where asbestos material is found to exist on the development site and that asbestos material is to be removed or disturbed as a result of any proposed demolition, alteration or addition, then all work involving removal and disposal of asbestos material must be undertaken by persons who hold the appropriate licence issued by WorkCover NSW under Chapter 10 of the Occupational Health and Safety Regulation 2001.
  - iii) The collection, storage, transportation or disposal of any type of asbestos waste is to comply with the requirements of clause 29 of the Protection of the Environment Operations (Waste) Regulation 1996.
  - iv) Upon completion of disposal operations, the applicant must lodge with the principal certifying authority, within seven (7) days, all receipts (or certified photocopies) issued by the receiving landfill site as evidence of proper disposal.

*Note: The person responsible for disposing of the asbestos material shall consult with the Environment Protection Authority to determine the location of an approved landfill site to receive asbestos material.*

- v) On construction sites where buildings contain asbestos material, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected on the site in a prominent position visible from the street. The sign is to be erected prior to any work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility. This condition is imposed for the purpose of worker and public safety and to ensure compliance with Clause 259(2)(c) of the Occupational Health and Safety Regulation 2001.

### **Signs for Construction Sites**

18. On-site signage is required to clearly identify the PCA and the principal contractor (the coordinator of the building work) pursuant to the *Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003*, s157(1)(c1), Cl 98A, 136C & 227A.

### **Dust Control**

19. Measures to prevent the emission of dust or other impurities into the surrounding environment are to be implemented during demolition works.

### **Hours of Construction**

20. In order to maintain the amenity of adjoining properties, site works shall be restricted to between 7.00 am and 6.00 pm, Monday to Friday and 8.00 am to 1.00 pm Saturday. No work shall be undertaken on Sundays or public holidays. Plant, goods or materials shall not be delivered to the site outside the approved hours of site works unless otherwise approved by Council.

### **Excavation & Backfilling**

21. Retaining walls or other approved methods necessary to prevent the movement of excavated or filled ground, are to be constructed together with associated stormwater drainage measures prior to occupation of the development or before where site conditions require.

If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must:

- i) preserve and protect the building from damage;
- ii) if necessary, underpin and support the building in an approved manner; and
- iii) at least 7 days before excavating, give notice of intention to do so to the adjoining owner and furnish particulars to the owner of the proposed work.

### **Protection of Public Places**

22. If the erection or demolition of a building causes pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, a fence must be erected between the building premises and the public place. The fence must be at least 1.8m high of chainwire and galvanised pipe construction. Welded wire reinforcing fabric is not to be used.

### **Fire Safety Certificate – Final**

23. In accordance with Part 9, Division 4 of the Environmental Planning & Assessment Regulation, 2000, the owner of the building must, on completion of the building, provide Council with a certificate in relation to each essential fire safety or other safety measure implemented in the building.

### **Fire Safety Statement - Annual**

24. In accordance with Part 9, Division 5 of the Environmental Planning & Assessment Regulation, 2000, at least once in each period of 12 months after the date of the first fire safety certificate, the owner shall provide Council with a further certificate in relation to each essential service installed in the building.

### **Survey Reports**

25. To ensure that the building and any associated structures are correctly positioned on the site, a report prepared by a registered surveyor is to be submitted to the principal certifying authority at each level of construction of the building (prior to the pouring of concrete) indicating that the finished floor level is in accordance with the approved plans.

### **Sydney Water**

26. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then see Building & Renovating under the heading Building & Renovating, or telephone 13 20 92.

### **Long Service Levy**

27. Under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 any work costing \$25,000 or more is subject to a Long Service Levy. The levy rate is 0.35% of the total cost of the work and shall be paid to either the Long Service Payments Corporation or Hornsby Shire Council. Under section 109F (1) of the Environmental Planning & Assessment Act, 1979 this payment must be made prior to a construction certificate being issued.

### **Construction Certificate – Engineering Works**

28. A construction certificate must be obtained from either Council or an Accredited Certifier. Engineering design plans and specifications are to be prepared by a chartered professional engineer for any proposed works. The plans and specifications are to be in accordance with development consent conditions, appropriate Australian standards, and applicable Council standards, in particular "Hornsby Shire Council Civil Works - Design and Construction Specification". Information required to be submitted with a construction certificate is as follows:

- a) copies of compliance certificates relied upon
  - b) Four (4) copies of the detailed engineering plans in accordance Hornsby Shire Council's Civil Works - Design Specification 1999. The detailed plans may include but are not limited to the earthworks, roadworks, road pavements, road furnishings, stormwater drainage, landscaping and erosion control works.
  - c) Hornsby Shire Council's approval for roadworks and public drainage is required prior to the issuing of a construction certificate for these works.
29. All engineering works required by this consent must be designed and undertaken in accordance with the relevant aspects of the following documents, except as otherwise authorised by this consent. A Construction Certificate is to be obtained prior to commencement of works.
- a) Australian Rainfall and Run-Off 1987
  - b) Hornsby Shire Council's Design and Construction Specifications 1999

### **Inspections - Engineering**

30. All engineering work required by the consent must be inspected at the "hold points" as nominated in the Hornsby Shire Council Civil Works Construction Specifications 1999. Certificates shall be issued prior to occupancy confirming that the works comply with development consent, construction certificate and Hornsby Shire Council Civil Works - Design and Construction Specification.

### **Road Works (Driveway/ Access)**

31. A separate application under the Local Government Act 1993 and Roads Act 1993 shall be submitted to Council for approval for the following:
- a) the installation of an additional vehicular footway crossing servicing the development from Ray Road.
  - b) the levels provided by Council are to be used to design the internal driveway.
  - c) further, evidence of Council's levels being incorporated into the longitudinal section is to be submitted with a construction certificate application.

*Note: This application can only be submitted by one of Council's Authorised Vehicular Crossing Contractors. You are advised to contact Council's Works Division on (02) 9847 6940 to obtain a list of Council's Authorised Vehicular Crossing contractors.*

32. The vehicular footway crossing, driveway and the parking areas are to be

designed and constructed in accordance with Hornsby Shire Council Civil Works Specifications, Australian Standards 2890.1 and 3727 and comply with the following requirements:

- a) A longitudinal section through the centreline of the driveway from the road to the proposed car parking areas showing proposed driveway grades and allowing or suitable transition at changes of grades, is to be submitted for consideration with a construction certificate application.
  - b) The maximum grade is to be 25% with maximum transition for changes of grade to be 8% per plan meter.
33. The ingress and egress crossings shall be suitably signposted prior to occupation.

#### **Drainage – On Site Detention**

34. The drainage system to control all collected roof and surface stormwater shall be designed with an on-site-detention system. The system shall be designed by a Chartered Professional Civil/Hydraulic Engineer of the Institution of Engineers, Australia to the following requirements:
- a) A below ground system the storage/ ponding capacity of not less than 17.90 m<sup>3</sup> and maximum permissible discharge, when full, 22.80 litres per second.
  - b) The discharge from an on-site-detention shall be connected to the inter-allotment easement to drain water that is to be created prior to issue of a construction certificate.
35. Stormwater drainage from the site shall be designed (pipes and gutters) to satisfactorily drain rainfall intensities for an average recurrence interval of 20 years. The design shall:
- a) be in accordance with Hornsby Shire Council - Design Specification
  - b) be in accordance with Australian/New Zealand Standard 3500.3.
  - c) ensure that the development, either during construction or upon completion, does not impede or divert natural surface water runoff so as to cause a nuisance to adjoining properties.
  - d) A surcharge/inspection grate is to be located directly above the outlet.
  - e) Stormwater discharge from the detention system is to be controlled via a one metre length of pipe not less than 50mm diameter discharging into a larger diameter pipe capable of carrying the design flow to Council's gutter/stormwater pit.

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### **Certificate and Restriction as to user and Positive Covenant for OSD system**

36. A certificate from a Chartered Professional Engineers of the Institution of Engineers, Australia (also known as Engineers, Australia), confirming that the on-site detention system has been constructed according to construction certificate plans and will function hydraulically in accordance with the approved design plan shall be submitted to Council (via PCA if private).

The certificate (OSD) is to include work-as-executed details of the on-site-detention system prepared by a Chartered Professional Engineer/Registered Surveyor and verify that the storage has been constructed in accordance with the design requirements. The details are to show the invert levels of the OSD system as well as the pipe sizes and grades. Any variations must be shown in red and supported by calculations.

37. An appropriate 88B restriction as to user and a positive covenant are to be created on the title of the land describing the on-site detention system clearly and responsibilities for maintenance and that they are not to be varied without the consent of the Council. Evidence of creation shall be submitted prior to occupation of the premises.

### **Interallotment Easement to Drain Water**

38. Construction of an interallotment stormwater drainage system to service the lot through the downstream property (lot 5, DP 205518). The OSD system is to be connected to the interallotment drainage pipe.
39. The interallotment easement to drain water (through lot 5, DP 205518) shall be created prior to issue of a construction certificate and evidence provided to the nominated Principal Certifying Authority.

### **Tree Protection**

40. To protect trees, the removal of trees numbered 2, 3, 6 and 10 marked on the plan or excavation or filling of soil or the placing of building materials or associated works (ie water, sewer, telephone, drainage) within the three metre setback is not permitted without written approval from Council.
41. To avoid mechanical injury or damage, tree number 10 is to have the trunk protected by 2m lengths of 75mm x 25mm hardwood timbers spaced at 80mm secured with galvanised wire (not fixed or nailed to the tree in any way). Trunk protection is to be installed prior to the issue of a construction certificate and maintained in good condition for the duration of the construction period. Affixing signage to trees located on site or located on the nature strip is strictly forbidden.

42. To prevent damage to tree roots, excavation (for services and other works), change of soil level (cut or fill), parking (vehicles or plant), or placement of building materials (including disposal of cement slurry and waste water) within the specified tree protection setbacks, and within three metres of all other trees to be retained onsite, is strictly forbidden. No tree roots located within the specified tree setbacks shall be severed or injured in the process of any site works during the construction or landscaping phases of the approved project. The applicant shall ensure that all underground services (i.e. water, drainage, gas, and sewer) shall not be laid within 3m of any tree located on the property protected under Council's Tree Preservation Order.
43. Works within the specified tree setbacks of trees 2, 3, 7, 8, 9 and 10 has been approved by Council's Parks and Landscape Team and shall be carried out in such a manner that is non-injurious to any roots revealed. Tree roots between 10mm and 50mm diameter, revealed during excavation, shall be cut cleanly by a sharp hand saw. The severance of tree roots greater than 50mm in diameter is not permitted. If roots of such diameter are revealed by hand excavation, the applicant must provide Council's Parks and Landscape Team an assessment by a qualified arborist that outlines the likely impact of severing the roots or an alternative to the proposed works.
44. Prior to the issue of an occupation certificate validation sampling must be carried out in the building areas after removal/demolition of the structures to ensure contamination does not exist in these areas in accordance with the recommendations made by GeoEnviro Consultancy Pty Ltd in their Preliminary Contamination and Geotechnical Report dated 3 July 2008. All sampling must be undertaken in accordance with the NSW Environment Protection Authority's *Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites and Contaminated Sites – Sampling Design Guidelines*
45. Prior to the issue of an occupation certificate, all mechanical plant equipment must have noise specifications, proposed locations and orientations reviewed prior to installation on the site to ensure that they will not singularly or in total emit noise levels which possess tonal, beating and similar characteristics or which exceeds background noise levels by more than 5dB(A). Should the calculated noise emissions from the mechanical plant equipment be in excess of the set limits, appropriate acoustic treatment must be implemented by a suitably qualified consultant.
46. The operator of the centre shall ensure that all parents enrolling in the child care centre be required to use the on-site parking facilities for drop off and pick up
47. A traffic calming device is to be designed and constructed at the sole cost of the applicant for that section of Ray Road between Midson Road and Kent Street in accordance with Council's written requirements prior to the issue of an occupation certificate.

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48. In accordance with the approved plans and *Australian Standard AS 2890.1:2004 Off-street car parking and AS 2890.2 - 2002 Off-street commercial vehicle facilities*, a minimum of 12 marked and numbered car spaces shall be provided on site.
49. The development shall comply with the recommendations of the Access Review prepared by *Morris-Goding Accessibility Consulting* dated 18 July 2008. Certification of compliance by the access consultant is to be obtained prior to the issue of a Construction Certificate.

- B. The applicant provide appropriate landscaping along the rear elevation of the property to ensure the appropriate screening, and prior to issuing of the consent certificate, liaise with Council to ensure the appropriate species is selected.

THE MOTION MOVED BY COUNCILLOR HUTCHENCE, seconded by COUNCILLOR MILLS, WAS PUT AND LOST.

THE FORESHADOWED MOTION MOVED BY COUNCILLOR EVANS, was seconded by COUNCILLOR MCMURDO, THEREBY BECOMING THE MOTION WHICH WAS PUT AND CARRIED.

FOR: COUNCILLORS BERMAN, CHOPRA, EVANS, MARTIN, MCMURDO, SMART AND RUSSELL.

AGAINST: COUNCILLORS BROWNE, HUTCHENCE AND MILLS.

## GENERAL BUSINESS

### 8 PLN198/08 Keep Australia Beautiful (NSW) 2008 Sustainable Cities Award - Heritage Management by a Metropolitan Council

(D01006797)

RESOLVED ON THE MOTION OF COUNCILLOR EVANS, seconded by COUNCILLOR RUSSELL,

THAT the contents of Executive Manager's Report No.PLN198/08 be received and noted.

FOR: COUNCILLORS BERMAN, EVANS, CHOPRA, HUTCHENCE, MARTIN, MCMURDO, MILLS, RUSSELL, SMART.

AGAINST: NIL.

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COUNCILLOR MCMURDO declared a pecuniary interest in this item under Clause 52 of Council's Code of Meeting Practice (see Declarations of Interest in these Minutes). The nature of interest was stated by COUNCILLOR MCMURDO on the Declarations of Interest form as "Uncles own property in Dural Centre area".

RESOLVED ON THE MOTION OF COUNCILLOR EVANS, seconded by COUNCILLOR RUSSELL,

THAT

1. Council progress exhibition of the Ku-ring-gai and Hornsby Subregional Employment Study including the addendum attached to Executive Manager's Report PLN130/08.
2. The Study be exhibited for a minimum period of two months in accordance with the consultation strategy identified in Executive Manager's Report No. PLN130/08.
3. A briefing for Councillors be conducted during the exhibition period.
4. At the conclusion of the exhibition period, the Ku-ring-gai and Hornsby Subregional Employment Study Working Party review submissions and prepare a report to Council on the exhibition of the Study.

Note:        This matter was dealt with by the exception method (refer to Items Passed by Exception). As a consequence, COUNCILLOR MCMURDO did not have the opportunity to leave the Council Chambers as she had previously indicated would be her intention (refer to her Declaration of Interest at the beginning of this Item). COUNCILLOR MCMURDO'S name has not been recorded in the voting details below.

FOR:            COUNCILLORS BERMAN, EVANS, CHOPRA, HUTCHENCE, MARTIN,  
                         MILLS, RUSSELL, SMART.

AGAINST:    NIL.

#### **SUPPLEMENTARY AGENDA**

Nil.

#### **CONFIDENTIAL ITEMS**

Nil.

#### **QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN**

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Nil.

**QUESTIONS WITHOUT NOTICE**

Nil.

**THE MEETING** terminated at 11.22pm.

These Minutes were confirmed at the meeting held on 5 November, 2008, at which meeting the signature hereunder was subscribed.

CONFIRMED

CHAIRMAN

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GENERAL MANAGER

CHAIRPERSON