

## **MINUTES OF PLANNING MEETING**

Held at COUNCIL CHAMBERS, HORNSBY  
on Wednesday, 4 February, 2009  
at 6:40 pm

### **PRESENT**

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

### **NATIONAL ANTHEM**

### **OPENING PRAYER**

Rev Geoff Collison, St John's Anglican Church, Beecroft, opened the Meeting in prayer.

### **ACKNOWLEDGEMENT OF RELIGIOUS DIVERSITY**

Statement by the Chairman:

*"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."*

### **ABORIGINAL RECOGNITION**

Statement by the Chairman:

*"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."*

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This is page 1 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 4 February, 2009.

## **AUDIO RECORDING OF COUNCIL MEETING**

Statement by the Chairman:

*"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**

Nil.

## **DECLARATIONS OF INTEREST**

COUNCILLOR HUTCHENCE declared a non-significant non-pecuniary interest in Item 3 – Report No. PLN2/09 Development Application - Modification to Townhouse Development (Building D), Convert attic roof space to bedrooms and modify fencing and strata plan Lot 2 DP 555678 Nos 23-27 Ray Road, Epping. Refer to that Item for details.

COUNCILLOR BERMAN declared a significant non-pecuniary interest in Item 4 – Report No. PLN8/09 Section 82A Review - Subdivision of one approved lot into two lots 68 - 86 Hull Road, Beecroft. Refer to that Item for details.

COUNCILLOR BERMAN declared a significant non-pecuniary interest in Item 5 – Report No. PLN9/09 Development Application - Subdivision of one approved lot into two and boundary adjustment 68 - 86 Hull Road, Beecroft. Refer to that Item for details.

## **POLITICAL DONATIONS DISCLOSURE**

Statement by the Chairman:

*"I advise all present that a Political Donations Disclosure Statement pursuant to Section 147(3) of the Environmental Planning and Assessment Act 1979 must be made in the event that a person has made or a Councillor or political party has received a gift or political donation from any person or organisation, including a person or organisation making a submission to an application or other planning matter, listed on the Planning Meeting agenda."*

## **CONFIRMATION OF MINUTES**

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This is page 2 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 4 February, 2009.

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

THAT the Minutes of the Planning Meeting held on Wednesday, 17 December 2008 be confirmed, a copy having been distributed to all Councillors.

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

AGAINST: NIL

#### **PETITIONS**

Nil.

#### **MAYORAL MINUTES**

Nil.

#### **NOTICES OF MOTION**

Nil.

#### **RESCISSION MOTIONS**

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, 3, 4, 5, 6, 7 and 8 were withdrawn for discussion.

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

THAT the recommendation in respect of Item 2 be adopted.

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

AGAINST: NIL

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

*Note:*

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This is page 3 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 4 February, 2009.

*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**

- 1**            **PLN4/09 Section 82A Review - Demolition of outbuildings, alteration to the existing dwelling and subdivision of one allotment into two allotments 20 Nyara Road Mt Kuring-gai**

**(DA/552/2008)**

Mr Roland Briefrel, of Mt Kuring-gai, addressed Council regarding this item.

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

THAT Development Application No. 552/2008 for the demolition of outbuildings, alteration to the existing dwelling and subdivision of one allotment into two allotments at Lot 27 DP 6358, No. 20 Nyara Road, Mt Kuring-gai, be approved subject to the conditions of consent detailed in Schedule 1 attached to Report No. PLN4/09 as amended by the following requirement:

1. The inclusion of an additional condition requiring appropriate construction methods for the adequate protection of the magnolia tree on 22 Nyara Road adjoining the western side boundary of the property.

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

AGAINST:      COUNCILLOR MCMURDO

### **A WARD**

- 2**            **PLN3/09 Development Application - Boundary adjustment between two allotments - Lots 20 & 21 DP 23821, Coba Point Berowra Creek**

**(DA/1296/2008)**

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

THAT, subject to the concurrence of the Director General of the NSW Department of Planning, Development Application No. 1296/2008 for the boundary adjustment between two allotments at Lots 20 & 21 DP 23821 Coba Point, Berowra Creek, be approved subject to the conditions of consent detailed in Schedule 1 attached to Report No. PLN3/09.

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

AGAINST: NIL

**B WARD DEFERRED**

Nil.

**B WARD**

Nil.

**C WARD DEFERRED**

Nil.

**C WARD**

**3 PLN2/09 Development Application - modification to townhouse development (Building D), convert attic roof space to bedrooms and modify fencing and strata plan Lot 2 DP 555678 Nos 23-27 Ray Road, Epping**

**(DA/1688/2006/C)**

NOTE: COUNCILLOR HUTCHENCE 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 HUTCHENCE, the nature of the interest was "The item relates to a property on the same road as my residence although far removed", and the explanation of why the interest does not require further action in the circumstances was "Item has no bearing to my residence and location of my residence has no bearing in my decision making process". COUNCILLOR HUTCHENCE remained present for discussion and voting on the item.

Mr Frank Dempsey, of Epping, on behalf of residents on the western boundary of 23-27 Ray Road, addressed Council regarding this item.

Ms Joan Wilcox, of Epping, on behalf of Owners Corporation 7669 at 1/21 Ray Road, Epping, addressed Council regarding this item.

Mr Anthony Betros, of ABC Planning, addressed Council regarding this item.

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

THAT Development Application No. 1688/2006/C to convert the attic roof space of Building D to additional bedrooms for townhouses D2-D10, change the fencing materials from masonry to timber (western boundary) and modify the proposed strata plan to include basement storage at Lot 2 DP 555678 Nos. 23-27 Ray Road, Epping, be approved subject to the conditions of consent detailed in Schedule 1 attached to Report No. PLN2/09 as amended by the following requirement:

1. The proposal to change the fencing materials from masonry to timber (western boundary), is not approved.

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

AGAINST: NIL

**4 PLN8/09 Section 82A Review - Subdivision of one approved lot into two lots 68 - 86 Hull Road, Beecroft**

**(DA/1882/2007)**

NOTE: This item was dealt with in Confidential Session, under Section 10A 2(g) of the Local Government Act 1993 as it involved discussion of pending Land and Environment Court proceedings.

NOTE: COUNCILLOR BERMAN declared a 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 person associated with applicant is known to me and gave assistance during council elections." COUNCILLOR BERMAN was not present at, or in sight of the meeting, when the matter was being debated or voted on.

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This is page 6 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 4 February, 2009.

GENERAL MANAGER

CHAIRPERSON

NOTE: Due to Councillor Berman having declared a significant non-pecuniary interest in this item and consequently leaving the Meeting while this item was being debated and voted on, the Deputy Mayor took the chair for consideration of this item.

Mr Peter Butler, of Beecroft, on behalf of the Croft Home Owners Association, addressed Council regarding this item.

Mr David Pond, of Beecroft, addressed Council regarding this item.

Mr Hao Jiang, on behalf of Vigor Master Pty Ltd, addressed Council regarding this item.

NOTE: The residents who spoke in respect of this item stated that their comments were also relevant to item 5 but did not speak separately to that item.

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

THAT the Section 82A Review of Development Application No. 1882/2007 for the subdivision of one approved lot into two lots at Lot 3 DP 1042630, Nos 68-82 Hull Road, Beecroft, be refused for the reasons detailed in Schedule 1 attached to Report No. PLN8/09.

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

AGAINST: NIL.

**5 PLN9/09 Development Application - Subdivision of one approved lot into two and boundary adjustment 68 - 86 Hull Road, Beecroft**

**(DA/1013/2008)**

NOTE: This item was dealt with in Confidential Session, under Section 10A 2(g) of the Local Government Act 1993 as it involved discussion of pending Land and Environment Court proceedings.

NOTE: Due to Councillor Berman having declared a significant non-pecuniary interest in this item and consequently leaving the Meeting while this item was being debated and voted on, the Deputy Mayor took the chair for consideration of this item.

NOTE: COUNCILLOR BERMAN declared a 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 person associated with applicant is known to me and gave assistance during council elections." COUNCILLOR BERMAN was not present at, or in sight of the meeting, when the matter was being debated or voted on.

NOTE: The residents who spoke in respect of Item 4 stated that their comments were also relevant to item 5 but did not speak separately to that item.

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

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GENERAL MANAGER

CHAIRPERSON

THAT Development Application No. 1013/2008 for the subdivision of approved lot 5 into two lots and boundary adjustment with approved Lot 6 and Lot 7 at lot 3 DP 1042630, Nos. 68-86 Hull Road, Beecroft, be refused for the reasons detailed in Schedule 1 attached to Report No. PLN9/09.

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

AGAINST: NIL

6 **PLN1/09 Development Application - Demolition of an existing dwelling and  
subdivision of one lot into two - 8 Chorley Avenue, Cheltenham**

**(DA/1202/2008)**

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GENERAL MANAGER

CHAIRPERSON



Mr Tony Crittenden, of Cheltenham, addressed Council regarding this item.

Mr Jo-anne A'Lolia Cox, of Cheltenham, addressed Council regarding this item.

Mr Colin Johnston, of Beecroft, on behalf of the Beecroft-Cheltenham Civic Trust Inc., addressed Council regarding this item.

Mr Peter Graham, of Beecroft, addressed Council regarding this item.

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

THAT

1. Consideration of Development Application No. DA/1202/2008 for demolition of an existing dwelling and subdivision of one lot into two at Lot 144 DP 12364, No. 8 Chorley Avenue, Cheltenham be deferred pending Council obtaining a report from an independent expert heritage architect on the heritage significance of the existing dwelling within the Beecroft-Cheltenham Conservation Area which contains advice as to whether it would be possible to demolish the existing dwelling and replace it with a new dwelling that complements the streetscape and the heritage significance of the Conservation Area in such a manner that would accommodate the proposed subdivision.
2. The report is first to be presented to a Heritage Committee Meeting for consideration before being presented to the following Planning Meeting.

AN AMENDMENT WAS MOVED BY COUNCILLOR MARTIN, seconded by COUNCILLOR MCMURDO,

THAT Development Application No. DA/1202/2008 for demolition of an existing dwelling and subdivision of one lot into two at Lot 144 DP 12364, No. 8 Chorley Avenue, Cheltenham, be refused for the reasons detailed in Schedule 1 attached to Report No. PLN1/09.

A FORESHADOWED AMENDMENT WAS MOVED BY COUNCILLOR EVANS.

THAT Development Application No. DA/1202/2008 for demolition of an existing dwelling and subdivision of one lot into two at Lot 144 DP 12364, No. 8 Chorley Avenue, Cheltenham, be approved and the General Manager be authorised to affix appropriately worded conditions of approval, including a condition that any future dwelling on the front allotment be designed and constructed in such a manner that addresses Council's objective to maintain the character of the area.

THE AMENDMENT MOVED BY COUNCILLOR MARTIN, seconded by COUNCILLOR MCMURDO WAS PUT AND LOST.

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

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GENERAL MANAGER

CHAIRPERSON

FOR: COUNCILLORS BERMAN, CHOPRA, EVANS, MARTIN, MILLS,  
RUSSELL AND SMART

AGAINST: COUNCILLORS BROWNE, HUTCHENCE AND MCMURDO

## **GENERAL BUSINESS**

### **7 PLN7/09 Inquiry - New South Wales Planning Framework**

**(F2008/00491)**

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

THAT Council forward a submission to the NSW Legislative Council's Standing Committee on State Development indicating its general support for the Inquiry into the NSW planning framework as outlined in the Discussion Paper. The submission also request that the Inquiry address issues concerning:

1. Development of cohesive National/State planning objectives and framework;
2. Consolidation of legislation to address duplication and inconsistency;
3. Targeted public annual reviews of legislation;
4. Improvements in the effectiveness of investigative and enforcement powers in relation to principally certified development;
5. Closure of gaps between development and building controls; and
6. Development of a planning and funding framework to support councils to perform their role.

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

AGAINST: NIL

AT THIS POINT IN THE MEETING (8.55 PM) THE MAYOR ADJOURNED THE MEETING. THE MEETING RESUMED AT 9.04 PM.

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

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Nil.

## **SUPPLEMENTARY AGENDA**

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Nil.

**CONFIDENTIAL ITEMS**

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

THAT Council move in to Confidential Session to consider Items 4 and 5 due to pending Land and Environment Court proceedings and to consider Item 8 for the reasons given below that item.

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

THAT Council move out of Confidential Session.

**8 PLN5/09 Hornsby Shire Housing Strategy**

*This report was dealt with in confidential session, under s10A 2(c) of the Local Government Act,1993. This report contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. (This report proposes the rezoning of land, where prior knowledge of the proposal could confer an unfair financial advantage to any person)*

**(F2004/07491-03)**

Mr John Cordina of Dural, on behalf of the South Dural Residents & Ratepayers Group, addressed Council on this item.

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

THAT

1. Council endorse the Hornsby Shire Housing Strategy for exhibition.
2. The Strategy be exhibited for a minimum period of two months in accordance with the Consultation Strategy outlined in Executive Manager's Confidential Report No. PLN5/08.
3. The General Manager be delegated authority to endorse the exhibition material, subject to any minor amendments required.
4. At the conclusion of the exhibition period, a Steering Committee meeting be held to discuss submissions received and any amendments or refinements required to the Strategy.

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

AGAINST: NIL

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GENERAL MANAGER

CHAIRPERSON

**QUESTIONS WITHOUT NOTICE**

Nil.

**THE MEETING** terminated at 9.49 pm.

These Minutes were confirmed at the meeting held on Wednesday, 4 March, 2009, at which meeting the signature hereunder was subscribed.

CONFIRMED

CHAIRMAN

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GENERAL MANAGER

CHAIRPERSON