



the bushland shire

creating a living environment

MINUTES OF PLANNING MEETING

Held at COUNCIL CHAMBERS, HORNSBY
on Wednesday, 3 June, 2009
at 6:42 pm

PRESENT

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

NATIONAL ANTHEM

OPENING PRAYER

Pastor James Sutherland of Thornleigh Community Baptist Church, 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."

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GENERAL MANAGER

CHAIRMAN

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."

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

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

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

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

AGAINST: NIL

DECLARATIONS OF INTEREST

COUNCILLOR BERMAN declared a less than significant non-pecuniary interest in Item 4 – PLN33/09 Development Application - Erection of a 7 storey mixed use building - The Walk, 228 - 234 Pacific Highway Hornsby. Refer to that Item for details.

COUNCILLOR BROWNE declared a less than significant non-pecuniary interest in Item 4 – PLN33/09 Development Application - Erection of a 7 storey mixed use building - The Walk, 228 - 234 Pacific Highway Hornsby. Refer to that Item for details.

COUNCILLOR CHOPRA declared a significant non-pecuniary interest in Item 4 – PLN33/09 Development Application - Erection of a 7 storey mixed use building - The Walk, 228 - 234 Pacific Highway Hornsby. Refer to that Item for details.

COUNCILLOR RUSSELL declared a less than significant non-pecuniary interest in Item 4 – PLN33/09 Development Application - Erection of a 7 storey mixed use building - The Walk, 228 - 234 Pacific Highway Hornsby. Refer to that Item for details.

COUNCILLOR HUTCHENCE declared a less than significant non-pecuniary interest in Item 6 - PLN35/09 Development Application - Educational Establishment Barker College, 91 Pacific Highway Hornsby. Refer to that Item for details.

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COUNCILLOR BERMAN declared a less than significant non-pecuniary interest in Item 7 – Report No. PLN41/09 Development Application - Section 96 (2) - Erection of an 11 Storey Mixed Use Building - 135-137 Pacific Highway, Hornsby. 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

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

THAT the Minutes of the Planning Meeting held on Wednesday 6 May 2009 be confirmed, a copy having been distributed to all Councillors.

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

AGAINST: NIL

PETITIONS

NIL

MAYORAL MINUTES

13 MM6/09 Sydney Adventist Hospital - Concept Plan Application

(F2004/06486)

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

THAT the General Manager write to the Director General of the Department of Planning raising Council’s concerns with the proposed development as detailed in the draft letter attached to Mayoral Minute No. 6/09.

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

AGAINST: NIL

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

THAT:

1. Council endorse an extension to the exhibition period for the Hornsby Shire Housing Strategy for at least one month.
2. The extension of the exhibition period be notified through advertisements in local newspapers and notification on Council's website.

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

AGAINST: NIL

NOTICES OF MOTION

NIL

RESCISSION MOTIONS

1 RM1/09 Rescission Motion - Development Application - Seniors Living Development 14A and 16 Murray Road Beecroft

(F2008/00135)

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

THAT the resolution adopted at the Planning Meeting held on 6 May 2009 in respect of Item 4, Development Application - Seniors Living Development 14A and 16 Murray Road, Beecroft, namely:-

“THAT Development Application No. 1349/2008 for demolition of the existing rear dwelling and construction of a Seniors Living development comprising 11 self-contained dwellings, including refurbishment of the existing dwelling at the frontage, at Lot 115 DP 1136664 and Lot 1 DP 509627 (No. 14A & No. 16) Murray Road, Beecroft, be approved subject to conditions of consent detailed in Schedule 1 attached to Report No. PLN26/09 as amended by the following requirements:

1. Condition 9 be amended to read:

Dilapidation Report

A ‘Dilapidation Report’ must be prepared by a ‘chartered structural engineer’ detailing the structural condition of the following adjoining properties:

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

- a) No. 138A Beecroft Road, Beecroft.
 - b) Nos. 144-146 Beecroft Road (Chesalon Nursing Home) Beecroft; and
 - c) No. 18A Murray Road, Beecroft.
2. Condition 34 - Boundary Fencing – be amended to allow an additional privacy screen to be constructed on the fence which forms the common boundary with 18A Murray Road, in the event that the owner of 18A Murray Road is not satisfied that the original fence is sufficient to maintain privacy between the properties”.

be, and is hereby rescinded.

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

AGAINST: COUNCILLORS MILLS AND SMART

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

THAT Development Application No. 1349/2008 for demolition of the existing rear dwelling and construction of a Seniors Living development comprising 11 self-contained dwellings, including refurbishment of the existing dwelling at the frontage, at Lot 115 DP 1136664 and Lot 1 DP 509627 (No. 14A & No. 16) Murray Road, Beecroft, be approved subject to conditions of consent detailed in Schedule 1 attached to Report No. PLN26/09 as amended by the following requirements:

1. Condition 9 be amended to read:

Dilapidation Report

A ‘Dilapidation Report’ must be prepared by a ‘chartered structural engineer’ detailing the structural condition of the following adjoining properties:

- a) No. 138A Beecroft Road, Beecroft.
 - b) Nos. 144-146 Beecroft Road (Chesalon Nursing Home) Beecroft; and
 - c) No. 18A Murray Road, Beecroft.
2. Condition 29 (e) be added which reads – Permeable paving material that allows infiltration of water to the soil is to be utilised within a minimum three metre radius of existing trees and new tree plantings.

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3. Condition 34 - Boundary Fencing – be amended to allow an additional privacy screen to be constructed on the fence which forms the common boundary with 18A Murray Road, in the event that the owner of 18A Murray Road is not satisfied that the original fence is sufficient to maintain privacy between the properties.

FOR: COUNCILLORS BERMAN, BROWNE, CHOPRA, HUTCHENCE,
MARTIN, MCMURDO, MILLS, RUSSELL AND 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 2, 3, 4, 5, 7, 8, 9, 10, 11 and 12 were withdrawn for discussion.

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

THAT the recommendation in respect of Item 6 be adopted.

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

A WARD

2 PLN38/09 Development Application - Residential - Alterations and Additions - 44 Brooklyn Road Brooklyn

(DA/15/2009)

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GENERAL MANAGER

CHAIRMAN

Mr Terry Coles, of Brooklyn, addressed Council regarding this item.

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

THAT:

1. Development Application No. 15/2009 for the erection of a double garage at Lot 1 Sec B DP 5527 – 44 Brooklyn Road Brooklyn be approved subject to the conditions of consent detailed in Schedule 1 of Report No. PLN38/09 as amended by the following requirements:
 - a) Condition No. 8 be amended to read:

To assist in the protection of the scenic quality of the area a number of locally native screening trees (at least 6) such as *Elaeocarpus reticulatus* (Blueberry Ash), *Ceratopetalum gummiferum* (Christmas Bush) and/or *Acmena smithii* variegated Lilly Pillys are to be planted to the west of the building. The pot size is to be a minimum 25 litres and the trees must be maintained and protected at least until they reach a height of 3 metres. The trees must be locally indigenous, from local plant stock (preferably), reach a mature height greater than 4 metres and have a life span greater than 20 years.
 - b) Condition No. 9 be amended by the addition of the words “.....excluding any of the three shades of blue.” after the words “..the Brooklyn Development Control Plan (Appendix C)”
2. A report be prepared for Council’s consideration addressing:
 - a) the issue of legal access to the property at 44 Brooklyn Road, Brooklyn
 - b) Council’s liabilities in relation to the current access arrangements.

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

AGAINST: NIL

B WARD DEFERRED

3 PLN39/09 Development Application - Erection of a dwelling-house 16B Osborn Road, Normanhurst

(DA/641/2008)

Mr Bruce Ridley, of Normanhurst, addressed Council regarding this item.

Mr David Wilkins, of Normanhurst, addressed Council regarding this item.

Dr Anne Clements, of North Sydney, addressed Council regarding this item.

Mr Warwick Gosling, Town Planning Consultant to Applicant, addressed Council regarding this item.

Mr John Crerar, of Wahroonga, addressed Council regarding this item.

Mr Wally Meakes, Solicitor to Mr Crerar, addressed Council regarding this item.

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

THAT Development Application No. DA/1641/2008 for the erection of a split level, one and two storey dwelling-house at Lot 18, DP 1120186, No. 16B Osborn Road, Normanhurst be approved subject to the conditions of consent detailed in Schedule 1 of Report No. PLN39/09, and subject to the General Manager being delegated authority to determine whether permeable paving will add value to the long term viability of the trees on site, and if so, to include as a further condition of consent.

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

AGAINST: COUNCILLORS MARTIN AND MCMURDO

B WARD

4 PLN33/09 Development Application - Erection of a 7 storey mixed use building - The Walk, 228 - 234 Pacific Highway Hornsby

(DA/1564/2008)

NOTE: COUNCILLOR BERMAN declared a less than 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 "An objector to the DA, who runs a business adjoining the site in question, is known to me", and the explanation of why the interest does not require further action in the circumstances was "The abovementioned person works as an accountant whose services I have hired in the past". COUNCILLOR BERMAN remained present for discussion and voting on the item.

NOTE: COUNCILLOR BROWNE declared a less than 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 BROWNE, the nature of the interest was "Used services of a Public Accountant located at 10 Edgeworth David Avenue which is adjacent to Item in question and there are objections raised by a number of tenants", and the explanation of why the interest does not require further action in the circumstances was "I have not been contacted by the Accountant in question regarding consideration of the DA, therefore have not been influenced in any way in making my decision re the item in question". COUNCILLOR BROWNE remained present for discussion and voting on the item.

NOTE: COUNCILLOR CHOPRA 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 CHOPRA, the nature of the interest was "Dr Frank Fitzmaurice of 10 Edgeworth David Avenue, Hornsby is my GP". COUNCILLOR CHOPRA was not present at, or in sight of the meeting during discussion and voting on the item.

NOTE: COUNCILLOR RUSSELL declared a less than significant non-pecuniary interest in

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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 "A tenant of the neighbouring building has been engaged as an auditor for my election return earlier this year", and the explanation of why the interest does not require further action in the circumstances was "I have only met the person in question twice previously to have my accounts audited". COUNCILLOR RUSSELL remained present for discussion and voting on the item.

Mr Peter Waite, of Pennant Hills, addressed Council regarding this item.

Mr Lindsay Spooner, of Hornsby, addressed Council regarding this item.

Mr Peter McCulloch, of Hornsby, on behalf of Body Corporate SP30399, addressed Council regarding this item.

Dr Mark Fitzmaurice, of Hornsby, addressed Council regarding this item.

Mr Daniel McNamara, on behalf of the Applicant, addressed Council regarding this item.

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

THAT:

1. Development Application No. 1564/2008 for the erection of a seven storey mixed use development incorporating retail and commercial floor space and thirty two residential units at Lot A and B DP 304557 (No. 228 – 234) Pacific Highway, Hornsby be approved subject to conditions of consent detailed in Schedule 1 of Report No. PLN33/09 as amended by the following requirement:

- a) Condition No. 18 be modified to read:

A temporary right-of-access for the adjoining property at No. 10 Edgeworth David Avenue must be provided and maintained at all times during the construction works on the site. The right-of-access must be sealed, car parking spaces and ambulance bay line marked and a sufficient garbage storage and pick-up area provided.

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

AGAINST: NIL

**5 PLN34/09 Section 82A Review - Erection of a Dwelling-House
16C Osborn Road, Normanhurst**

(DA/432/2008)

Mr David Wilkins, of Normanhurst, addressed Council regarding this item.

Dr Anne Clements, of North Sydney, addressed Council regarding this item.

Mr John Crerar, of Wahroonga, addressed Council regarding this item.

Mr Wally Meakes, Solicitor to Mr Crerar, addressed Council regarding this item.

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

THAT Development Application No. DA/432/2008, the subject of a Section 82A review for the erection of a one and two storey dwelling-house at Lot 17, DP 1120186, No. 16C Osborn Road, Normanhurst be approved subject to the conditions of consent detailed in Schedule 1 of Report No. PLN34/09 as amended by the following requirements:

- a) The addition of a further condition which requires that any landscape plans for this site are to include locally native indigenous species.

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

AGAINST: COUNCILLORS MARTIN AND MCMURDO

THE MAYOR ADJOURNED THE MEETING FOR SUPPER AT 9.32 PM AND RESUMED AT 9.48 PM.

**6 PLN35/09 Development Application - Educational Establishment
Barker College, 91 Pacific Highway Hornsby**

(DA/81/2009)

NOTE: COUNCILLOR HUTCHENCE declared a less than 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 "Barker College was my high school", and the explanation of why the interest does not require further action in the circumstances was "Have not had contact with the school in years and association has no relevance to the DA". COUNCILLOR HUTCHENCE remained present for discussion and voting on the item.

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

THAT Development Application No. 81/2009 for alterations and additions to the existing Barker College Junior School and construction of a multi-purpose hall at No. 91 Pacific Highway Hornsby, Nos. 2-10 Unwin Road Waitara & Nos. 1-11 The Avenue Waitara be approved subject to the conditions of consent detailed in Schedule 1 of Report No. PLN35/09.

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

AGAINST: NIL

7 PLN41/09 Development Application - Section 96 (2) - Erection of an 11

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Storey Mixed Use Building - 135-137 Pacific Highway, Hornsby

(DA/1586/2001/B)

NOTE: COUNCILLOR BERMAN declared a less than 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 "The applicant is known to me and is known to people who supported my re-election campaign in 2008", and the explanation of why the interest does not require further action in the circumstances was "I am aware that the applicant attended a dinner to support my re-election in 2008. I note that he has not made a political donation disclosure. It is my belief that the applicant attended the above mentioned dinner as a guest of others who purchased tickets". COUNCILLOR BERMAN remained present for discussion and voting on the item.

Mr Don Fearon, on behalf of the Orion Owners Corporation, addressed Council regarding this item.

Mr David Campion, of Hornsby, addressed Council regarding this item.

Ms Elizabeth Willis, of Normanhurst, addressed Council regarding this item.

Mr David Sutton, on behalf of the Applicant, addressed Council regarding this item.

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

THAT:

1. Council approve the modification to Development Application No. 1586/2001/B for a mixed use building comprising 70 residential units and three levels of commercial units at Lots 1 and 2 DP 606694 (Nos. 135-137) Pacific Highway and Pound Road Reserve, Hornsby subject to the following conditions:

A. Deletion of condition Nos. 1, 4, 10-14, 16, 18, 20, 36, 42-45, 53-60, 56-58, 59-60, 61-63, 69-71, 74-76 and 88-90.

Reason: The conditions are no longer relevant to the modified proposal or have been replaced with a new condition or advice.

B. Amendment of condition Nos. 6, 17, 37, 64, 79, 80, 81, 91, 92, 93 and 99 to read:

6. The materials and colours to be used in the construction must be the same as those samples presented to Council on 9 January 2009 as part of the Section 96 application.

17. A minimum of 2 units within the development must be provided as adaptable units and shall comply with Australian Standard 1428 Parts 1 and 4 and the Building Code of Australia. Prior to occupation of the building, a compliance certificate certifying compliance with these requirements must be obtained and submitted to the Principal Certifying Authority.

37. All building work must be carried out in accordance with the requirements

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of the Building Code of Australia.

64. On at least one occasion in every 12 month period following the date of the first 'Fire Safety Certificate' issued for the property, the owner must provide Council with an annual 'Fire Safety Certificate' to each essential service installed in the building.
- 79A. The commercial waste must be serviced by any authorised collection contractor.
- 79B. All commercial tenants must keep written evidence on site of a valid contract with a licensed waste contractor(s) for the regular collection and disposal of the waste and recyclables that are generated on site.
80. An easement entitling the Council, its servants and agents and persons authorised by it to enter upon the property and to operate equipment for the purpose of waste and recycling collection services. This easement must be granted in favour of Council prior to the occupation of the development and prior to registration of any plan of subdivision or strata subdivision of the land.

Note: An 88(b) instrument is an acceptable form of easement subject to the area affected by the easement not requiring renewal upon sale or transfer at any time.

81. The bin rooms, garbage chute and related devices must be designed and constructed in accordance with the provisions of Hornsby Shire Council's Waste Minimisation and Management Development Control Plan.
- 91A. The payment to Council of a contribution of \$776,747.25 for 70 dwellings towards the cost of infrastructure identified in Council's Development Contributions Plan 2007-2011.

Note: * The value of contribution is current as at 26 May 2009. The contribution will be adjusted from this date in accordance with the underlying consumer price index for subsequent financial quarters.

It is recommended that you contact Council to ascertain the indexed value of the contribution prior to payment.

- 91B. The payment to Council of a contribution of \$162,678.25 for 117 employees towards the cost of infrastructure identified in Council's Development Contributions Plan 2007-2011.

Note: * The value of contribution is based on a rate of \$2,259.42 per employee, derived from a rate of one employee per 30sqm commercial floor area and is current as at 26 May 2009. A credit of \$101,673.90 applies in recognition of the existing commercial floor space. The contribution will be adjusted from this date in accordance with the underlying consumer

price index for subsequent financial-quarters.

It is recommended that you contact Council to ascertain the indexed value of the contribution prior to payment.

92. Prior to the release of the occupation certificate, that stratum part of the land known as Lot 1 DP1077943 comprising the former Pound Road excluding the stratum required for the basement car parking must be landscaped in accordance with the requirements of conditions Nos. 4 and 88-90 and be identified as public open space and the land must be dedicated to Council, at no cost to Council.
93. No stopping restrictions shall be installed across both Pacific Highway and Government Road.
99. Noise protection must be provided in accordance with the Department of Planning's Developments Near Rail Corridors and Busy Roads Interim Guideline. The cost of any attenuation measures must be provided at no cost to the Roads and Traffic Authority.

C. Addition of the following conditions:

103. All demolition work must be carried out in accordance with Australian Standard 2601-2001 – The Demolition of Structures and the following requirements
 - a) Demolition material is to be disposed of to an authorised recycling and/or waste disposal site and/or in accordance with an approved waste management plan.
 - b) Demolition works, where asbestos material is being removed, must be undertaken by a contractor that holds an appropriate licence issued by WorkCover NSW in accordance with Chapter 10 of the Occupational Health and Safety Regulation 2001 and Clause 29 of the Protection of the Environment Operations (Waste) Regulation 1996.
 - c) 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 must be erected in a prominent position visible from the street.
104. A temporary hoarding, fence or awning must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works:
 - a) Could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic.
 - b) Could cause damage to adjoining lands by falling objects.
 - c) Involve the enclosure of a public place or part of a public place.

Note: Notwithstanding the above, Council's separate written approval is required prior to the erection of any structure or other obstruction on public land.

105. The floor to ceiling height must be no less than 4.5 metres in all areas used to manoeuvre, park and load heavy rigid vehicles, including loading bays/service areas.
106. The manoeuvring path for heavy rigid vehicles must be clear of all structures.
107. To confirm compliance with the Waste Management Plans lodged with this Development Application, prior to issue of the subdivision certificate/occupation certificate, the applicant must submit to Council documentary evidence (ie. tipping dockets/receipts from recycling depots, transfer stations and landfills) and provide a summary report of actual destinations and quantities of waste generated by the works carried out under this development consent. This summary report is to be based on and be in the format of the Waste Management Plan Section One – Demolition Stage and/or Section Three – Construction Stage. If less than 60% waste was reused or recycled, then the summary report must include the reasons why the 60% target was not achieved.
108. A site caretaker must be employed and be responsible for moving bins where and when required, washing bins and maintaining storage areas, managing the communal composting area, arranging the prompt removal of dumped rubbish, and ensuring all residents and commercial tenants are informed of the waste management system.
109. Each bin room must be designed to comply with the Building Code of Australia with particular regard to fire prevention provisions.
110. Each dwelling must be provided with an indoor waste/recycling cupboard for the interim storage of a minimum one day's garbage and recycling generation.
111. Space must be provided for a communal compost container; the siting of which will have regard for potential amenity impacts.
112. Site security measures implemented on the property, including electronic gates, must not prevent access to the bin room/collection point by waste removal services.
113. The residential component and non-residential component of the development must have separate and self-contained waste management systems, including separate waste/recycling storage rooms. Commercial tenants must be prevented (via signage and other means) from using the residential waste/recycling bins and vice versa.
114. Submission to Hornsby Shire Council for approval the Pound Road

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landscape pedestrian plaza development plans, prior to the issue of a Construction Certificate, demonstrating the scope of construction works, consistent with the requirements of the following conditions. Design requirements shall include:

- a) The park must be developed with clear open sight lines through the space from Government Road. Areas of shrub planting must not be included in the central areas. The majority of the area must be grassed.
- b) A central paved space must be provided which relates to the proposed commercial use of 1 Pound Road and the entry to the existing building at 4-10 Pound Road.
- c) Paths linking through the site must follow the main pedestrian movement corridors, in particular the diagonal movement across the plaza. Emergency exit points of adjacent building must be incorporated into the plan.
- d) Screen shrub planting to a height of 3-4 metres must be provided in front of any blank building walls.

115. The applicant must develop the landscape pedestrian plaza on Pound Road including paving, lighting, retaining walls, planting and furnishings to meet the following requirements:

Paving works to area

- a) All existing concrete and bitumen pavements must be demolished and removed from the site.
- b) Paving must be constructed to a standard equal to paving in public areas managed by Council and must include a clay brick paving surface finish, laid on sand and a concrete base course over a compacted subgrade.
- c) The new paving must provide a consistent paved pathway treatment through all pedestrian access areas;
- d) The concrete base course to paved areas must consist of a minimum 100mm thick 25 Mpa reinforced concrete with SL72 centrally placed;
- e) A central paved area must be provided for temporary tables should an appropriate tenant be established in the adjoining commercial leasing. Paved areas must be of minimum dimensions 15 x 15 metres.
- f) All new brick paving must be Claypave Regency Tan 230mm x 115mm x 50mm pavers supplied by Claypave Pty Ltd, Chum St Dinmore Queensland, phone 07 3282 1444 or approved equivalent.

Retaining walls and steps

- g) Retaining walls that may be utilised to define garden bed areas must have a maximum height of 900mm above the adjacent finished surface level and must be constructed from reinforced concrete blockwork with a coloured masonry finish and / or bagged and painted finish with an approved capping securely fixed to the wall.

- h) It is preferred that turf areas are set at a level nominal 150mm above adjacent paving level with finished block work.

Furniture Works and Lighting

- i) Landscape development works must include the construction of:
1. Four (4) new park benches;
 2. 3.5 metre height pedestrian scale light poles with luminaires to meet the requirements of the relevant Australian Standards for pedestrian lighting.
- j) New park benches must be Bench Seat 12 Aluminium (1800mm x 1200mm x 450mm high) supplied by Botton and Gardiner Urban Furniture, 37/34-36 Ralph Street, Alexandria NSW, phone 02 9667 8100. Park benches must be installed in a paved area, extending a minimum of 200mm beyond the edges of the bench in all directions.

Landscaping

- k) Landscaping of all areas must be planted with shrubs, groundcovers or native grasses and provided with a minimum 400mm depth of topsoil and 100mm depth of mulch. Topsoil must be suitable for the successful development of native shrubs and meet the requirements of AS4419 or approved equivalent.
- l) Landscaping of areas where tree planting is proposed must include a minimum topsoil depth of 1.0 metre, and topsoil volume of 4.0 cubic metres. The top 400mm of this topsoil must meet the requirements of AS4419 or approved equivalent.
- m) All turf areas must be constructed with a minimum 150mm depth of topsoil that meets the requirements of AS4419 or approved equivalent. Turf shall be Buffalo 'shade master' or approved equivalent.
- n) Tree planting to the plaza areas must include mature palms with a minimum height of 5 metres. Butia Palm or approved equivalent is to be provided.
- o. Screen planting to eastern edge of plaza must be installed in a minimum pot size of 25 litres and be Syzigium species.

116. Following completion of construction, the landscape softworks must be maintained by the applicant for a minimum of 12 months to ensure the establishment and successful growth of plant material to meet the intent of the landscape design. Maintenance must include but not be limited to watering, weeding, replacement of plant material and promoting the growth of all plants through standard industry practices.

117. A defects liability period of 12 months shall apply to all hard landscape construction works.

118. Prior to the issuing of the Final Occupancy Certificate, the completed works must be inspected and certified by a Registered Landscape Architect as being completed in accordance with the requirements of the Development Consent.
119. The swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site, as well as manoeuvrability through the site, must be in accordance with AUSTRROADS. In this regard, a plan must be submitted to Hornsby Shire Council for approval, which shows that the proposed development complies with this requirement.
120. The developer must submit detailed design drawings and geotechnical reports relating to the excavation of the site and support structures to the Roads and Traffic Authority for assessment (prior to the issue of any Construction Certificate). The developer must meet full cost of the assessment by the Roads and Traffic Authority. This report must address the following key issues:
 - a) The impact of excavation/rock anchors on the stability of the Pacific Highway and detailing how the carriageway would be monitored for settlement.
 - b) The impact of the excavation on the structural stability of the Pacific Highway.
 - c) Any other issues that may need to be addressed to the satisfaction of the Roads and Traffic Authority's geotechnical section. (Contact Geotechnical Engineer Stanley Yuen on 8837 0246 or Graham Yip 8837 0245 for details).
121. The post development stormwater discharge from the site into the Roads and Traffic Authority drainage system does not exceed the pre development discharge. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system must be submitted to the Roads and Traffic Authority for approval, prior to the commencement of any works.

Details shall be forwarded to:
The Sydney Asset Management
PO Box 973
Parramatta CBD NSW 2124

A plan checking fee may be payable and a performance bond may be required before the Roads and Traffic Authority's approval is issued. With regard to the civil works requirements, please contact the Roads and Traffic Authority's Project External Works on ph: 8849 2114 or fax: 8849 2766.

122. Any proposed landscaping, fencing or signage must not impede the desired sight lines of all road users including pedestrians and cyclists.
123. All vehicles must be able to enter and exit the site in a forward direction.

124. All construction vehicles must be accommodated on site.

ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, other relevant legislation and Council's policies and specifications. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

Advertising Signage – Separate DA Required

This consent does not permit the erection or display of any advertising signs. Most advertising signs or structures require development consent. Applicants should make separate enquiries with Council prior to erecting or displaying any advertising signage.

Environmental Planning and Assessment Act 1979 Requirements

- The Environmental Planning and Assessment Act 1979 requires:
- A construction certificate prior to the commencement of any works. Enquiries regarding the issue of a construction certificate can be made to Council's Customer Services Branch on 9847 6760.
- A principal certifying authority to be nominated and Council notified of that appointment prior to the commencement of any works.
- Council to be given at least two days written notice prior to the commencement of any works.
- Mandatory inspections of nominated stages of the construction inspected.
- An occupation certificate issued before occupying any building or commencing the use of the land.

Transfer of Pound Road

This consent does not commit the Council in any manner whatsoever, as owner of the land, to any agreement (other than which currently applies for the future transfer or use of the land. Any variation to the existing contracts/options will require further negotiation with the Property Branch of Council's Works Division and will be subject to a formal resolution of Council in accordance with Section 377 of the Local Government Act 1993.

2. Under the Strategic Planning Programme 2009-2010 Comprehensive LEP and Comprehensive DCP projects, Council investigate opportunities to amend development standards to facilitate and encourage additional employment generating floor space in new developments within the Hornsby Town Centre and environs consistent with the

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findings of the 2008 Draft Subregional Employment Study.

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

AGAINST: NIL

C WARD DEFERRED

C WARD

8 PLN36/09 Development Application - Section 96(2) - Subdivision of one lot into two - 8 Chorley Avenue Cheltenham

(DA/1202/2008/A)

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

Dr Jo-anne Cox, of Cheltenham, addressed Council regarding this item.

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

THAT Council refuse the Section 96 Application on the ground that Council considers a Heritage Architect designed dwelling would result in the most appropriate design outcome, and given the heritage significance of the precinct, allowing a person who is not a Heritage Architect to design any future dwelling would not be in the public interest.

A FORESHADOWED MOTION WAS MOVED BY COUNCILLOR BROWNE.

THAT Council approve the modification to Development Application No. 1202/2008/A for subdivision of one lot into two by deleting condition No. 16(d) at Lot 144 DP 12364 (No. 8) Chorley Avenue, Cheltenham as detailed in Schedule 1 of Report No. PLN36/09.

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

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

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

AGAINST: NIL

9 PLN37/09 Development Application - Registered Club - Alterations and additions - 103 - 109 New Line Road Cherrybrook

(DA/144/2009)

Mr John McMahon, of Cherrybrook, addressed Council regarding this item.

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GENERAL MANAGER

CHAIRMAN

Mr Rangaswami Balakumar, of Cherrybrook, addressed Council regarding this item.
Mr Stephen Bembrick, of Cherrybrook, addressed Council regarding this item.
Mr Rudi Valla, on behalf of West Pennant Hills Sports Club, addressed Council regarding this item.

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

THAT consideration of this matter be deferred for a period of one month to allow for appropriate senior staff to conduct an on-site meeting with Councillors and, if considered necessary, follow up at a workshop before this matter returns to Council.

AN AMENDMENT WAS MOVED BY COUNCILLOR MILLS, seconded by COUNCILLOR SMART,

THAT:

1. Development Application No. 144/2009 for alternations and additions to an existing registered club at Lot 2 DP367373 Nos. 103-109 New Line Road, Dural be approved subject to conditions of consent detailed in Schedule 1 of Report No. PLN37/09 as amended by the following requirements.

- a) Condition 20 will be further modified as follows:

Noise – Acoustic Assessment

An acoustic assessment is to be undertaken by a suitably qualified environmental consultant, selected by Council and at the sole cost of the applicant, within 60 days of the date of this consent in accordance with the *Environment NSW Industrial Noise Policy (2000)*, *Council's Policy and Guidelines for Noise and Vibration Generating Development (Acoustic Guidelines V.5, 2000)* and the *DECC's Noise Guide for Local Government (2004)*. Measurements must be taken from the common property boundary with numbers 4, 8, 14 and 19 Bowerman Place. Should the assessment find that noise from the premise exceeds 5dB(A) appropriate measures must be employed to rectify excessive noise.

2. Council produce information for the distribution to adjoining and nearby residents outlining the remedies through Council and the Office of Liquor, Gaming and Racing's Disturbance Complaints Unit if residents feel that the Club is not adhering to the terms of its license or the terms of its Development Application.

THE AMENDMENT, MOVED BY COUNCILLOR MILLS, seconded by COUNCILLOR SMART, WAS PUT AND LOST.

THE MOTION MOVED BY COUNCILLOR BROWNE, seconded by COUNCILLOR RUSSELL, WAS PUT AND CARRIED.

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

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AGAINST: NIL

GENERAL BUSINESS

10 PLN22/09 Heritage Review Stage 4

(F2007/00068)

Dr Ruth Shatford, on behalf of St Alban's Anglican Church Epping, addressed Council regarding this item.

Mr Nigel Hubbard, of Cheltenham, addressed Council regarding this item.

Mr Darren Beaver, of Berrilee, addressed Council regarding this item.

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

THAT:

- A.
1. Council endorse the recommendations of Executive Manager's Report No. PLN22/09 to include, remove and amend items on the heritage list and progress as part of an Annual Amending LEP, with the exception of Property No. 5 Chilcott Road, Berrilee – former Berrilee Public School (Identification No. B9).
 2. Council investigate inclusion of the following items for heritage listing as part of the next Heritage Review:
 - 2.1 Two (2) Eucalypt trees within Hillcrest Road, Pennant Hills; and
 - 2.2 Bottle Tree at No. 164 Ray Road, Epping.
 3. All persons who made submissions and affected property owners be advised of Council's resolution.
- B. Council officers undertake further considerations regarding the recommendation in respect of Property No. 5 Chilcott Road, Berrilee – former Berrilee Public School (Identification No. B9) and prepare a report for Council's consideration at the 1 July 2009 Planning Meeting.

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

AGAINST: NIL

11 PLN43/09 Request for Local Nominations for the Joint Regional Planning Panels

(F2004/06261)

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

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GENERAL MANAGER

CHAIRMAN

THAT:

1. Council nominate the Executive Manager Planning and the Executive Manager Environment as local members and the General Manager as the alternative local member of the Joint Regional Planning Panel for a period of up to three years.
2. Council receive a report six months following the commencement of the Joint Regional Planning Panel outlining the implications of the Panel in its first six months and options to expand community involvement/membership of the Panel.

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

AGAINST: NIL

12 PLN44/09 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 - Local Exclusions and Variations

(F2004/07218-02)

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

THAT Council:

1. Not make a submission for a local exclusion or variation from *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* at this stage.
2. Monitor and evaluate the built form outcomes facilitated by the *SEPP* as part of the review of Council's residential controls to commence in the middle of the year in accordance with the Strategic Planning Programme.
3. Make further representations to the Department of Planning requesting that the draft LEPs for proposed heritage conservation areas at East Epping and Essex Street Amendment No. 76), Mount Errington (Amendment No. 84) and Rosebank Avenue (Amendment No. 86) be gazetted as a matter of urgency.
4. Receive a further report in 12 months detailing the impacts of the Housing Code on Hornsby Shire since its adoption in February 2009.

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

AGAINST: NIL

PUBLIC FORUM FOR NON AGENDA ITEMS

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GENERAL MANAGER

CHAIRMAN

NOTE: At this point in the meeting, the Mayor allowed a member of the public to address Council in relation to a matter which was not on the agenda.

Mr Waite, of Pennant Hills, addressed Council in relation to the Hornsby Quarry and other matters.

QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN

NIL

SUPPLEMENTARY AGENDA

NIL

CONFIDENTIAL ITEMS

NIL

QUESTIONS WITHOUT NOTICE

TO THE EXECUTIVE MANAGER, PLANNING DIVISION, BY COUNCILLOR BERMAN

1. The Mayor asked the Executive Manager, Planning to provide advice to Council, as part of the preparation of the report on submissions received in response to the exhibition of the *Hornsby Shire Housing Strategy*, concerning the opportunities and constraints to increasing the permissible residential density of:
 - 1.1 existing undercapitalised sites zoned for 3 storey multi-unit housing developments surrounding the Hornsby Town Centre; and
 - 1.2 land on the western side of the Hornsby Town Centre.
 - 1.3 other undercapitalised sites capable of re-development in the Hornsby Town Centre.
2. He also asked that in the preparation of the above advice, the Executive Manager, Planning Division consult with the Department of Planning concerning its position regarding the potential investigation by Council of increasing residential densities of existing strata titled residential developments surrounding the Hornsby Town Centre.

THE MEETING terminated at 11.48 pm.

These Minutes were confirmed at the meeting held on Wednesday, 1 July, 2009, at which meeting the signature hereunder was subscribed.

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GENERAL MANAGER

CHAIRMAN

CONFIRMED

CHAIRMAN

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GENERAL MANAGER

CHAIRMAN