



the bushland shire

creating a living environment

SUPPLEMENTARY BUSINESS PAPER

ORDINARY MEETING

**Wednesday, 9 December, 2009
at 6:30 pm**

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**31 PROPOSED MEMO OF UNDERSTANDING - HORNSBY SHIRE COUNCIL,
THE HILLS SHIRE COUNCIL AND HAWKESBURY CITY COUNCIL**

Council is in receipt of correspondence (copy attached) from Mr Dave Walker, General Manager of The Hills Shire Council regarding the reestablishment of a Memorandum of Understanding between Hornsby Shire Council, The Hills Shire Council and Hawkesbury City Council. In this regard, it is noted that a Memorandum of Understanding existed between the Councils in the early 1990's.

In the correspondence, Mr Walker states that it is vitally important that any development of such a relationship be heavily biased towards economic development together with a long term blue print/vision for the three Council areas particularly in the areas of infrastructure, planning and economic development.

THAT

1. Council support the establishment of a Memorandum of Understanding with The Hills Shire Council and Hawkesbury City Council which would assist the Councils to work collaboratively on matters of regional significance affecting the north-west of Sydney.
2. The General Manager prepare a report for Council's consideration at the 17 February 2010 Ordinary Meeting which outlines how a regional partnership with The Hills Shire Council and Hawkesbury City Council could work.
3. Council re-iterate its continued active support for the Northern Sydney Regional Organisation of Councils (NSROC)

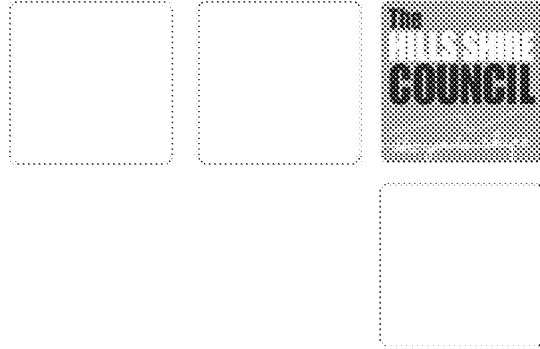
NICK BERMAN
Mayor

Attachments:

1. Memo of Understanding

File Reference: F2004/06248
Document Number: D01296691

The Hills Shire Council



30 November 2009

Mr Robert Ball
General Manager
Hornsby Shire Council
PO Box 37
HORNSBY NSW 1630

Email: rball@hornsby.nsw.gov.au

Dear Robert

MEMORANDUM OF UNDERSTANDING - HAWKESBURY, HORNSBY AND THE HILLS SHIRE

I refer to discussions prior to the recent Mayoral Election at which the then Mayor, Councillor Bolitho indicated a desire to consider reinvigorating a Memorandum of Understanding between the three (3) Councils that was originally signed in the early 1990's.

The Mayor of Hornsby, Councillor Berman has also indicated his desire for such a relationship/arrangement. In addition as you would now be aware The Hills Shire has now decided to cease its membership of WSROC. Council is desirous of proceeding with a formal relationship (structure yet to be determined) with Hawkesbury and Hornsby Councils.

At the meeting held prior the Mayoral Election I agreed to prepare a draft MOU for consideration.

The matter was held in abeyance pending Council's decision concerning WSROC and subsequent discussions at Council's Annual Planning Workshop which was held from 27th - 29th November 2009.

The outcome of those discussions was that Council was prepared to allow myself and the Mayor to complete a Memorandum of Understanding with Hawkesbury and Hornsby Councils and to also determine if both Mayors were in agreement, to establish some sort of formal structure to move forward this relationship.

I believe it is vitally important that any development of this relationship be heavily biased towards Economic Development together with a long term blue print/vision for the three (3) Council areas particularly in the areas of Infrastructure, Planning and Economic Development. Should your Council still be desirous of moving forward with a tripartite relationship, then it would be appreciated if both yourself and the Mayor could consider the attached draft Memorandum of Understanding with a view towards all three (3) Mayors and General Managers meeting prior to the 22nd December 2009 to finalise the MOU and to discuss the first round of future actions and also to discuss and hopefully finalise the framework for some formalised structure to move forward the relationship.

The Hills Shire Council
129 Showground Road Castle Hill NSW 2154
PO Box 75 Castle Hill NSW 1765

Telephone: (02) 9643 0505
Fax: (02) 9643 0409
DX 8455 Castle Hill

Email: council@thehills.nsw.gov.au
Web: www.thehills.nsw.gov.au
A.B.N. No. 25 034 464 056

ATTACHMENT 1 - ITEM 31

If you are happy with this approach it would be appreciated if you could contact my Personal Assistant Ms Nicole Palisi on 9843 0104 so that a suitable time can be made prior to 22nd December 2009 to discuss the MOU, future actions and the formal structure to move forward the relationship.

Yours faithfully



Dave Walker
GENERAL MANAGER

cc: Mayor, Councillor Peter Dimbrowsky
Group Manager - Strategic Planning, Mr Michael Edgar

MEMORANDUM OF UNDERSTANDING (Hawkesbury, Hornsby & The Hills Shire)

MEMORANDUM OF UNDERSTANDING

MEMORANDUM OF UNDERSTANDING between the Councils of Hawkesbury City, Hornsby and The Hills Shire.

This Memorandum of Understanding is made the day of between

HAWKESBURY CITY COUNCIL
HORNBSY COUNCIL
THE HILLS SHIRE COUNCIL

366 George Street, Windsor
296 Pacific Highway, Hornsby
129 Showground Road, Castle Hill

WHEREAS this Memorandum of Understanding is intended to create a relationship on each party to the extent that it is able, and where it is not able to record the intention of the parties to act cooperatively.

WHEREAS it will always be in the interest and to the good of the ratepayers and residents of the three (3) areas, it is intended to investigate, evaluate and propose a co-operative and regional direction for all three (3) Councils, whilst at the same time acknowledging the specific needs of each entity.

OBJECTS:

The objects of the relationship shall be:

- a) develop a long term strategic and economic plan/vision for the three (3) local government areas
- b) to work cooperatively and on a regional basis by developing plans, policies and actions in regard to planning, infrastructure, transport and economic development
- c) to strengthen the role of local government in regional affairs, particularly in terms of its relationship with peak organisations such as the Chambers of Commerce
- d) to foster cooperation between the members in terms of projects of interest, resource sharing etc.
- e) to determine the most appropriate structure to develop and guide the tripartite relationship
- f) to consider the needs of the local government areas and of the people of the local government areas and to make known those needs to the Commonwealth and New South Wales governments and the wider community
- g) to submit to the Commonwealth and New South Wales governments proposed policy changes and infrastructure, planning and economic development needs to satisfy the Council's obligations in terms of the metropolitan strategy or its replacement
- h) to assist members to carry out their duties/functions under the powers of the local government act 1993 and any statutory making provision for duties, functions or powers of members.

THE PARTIES AGREE to progress the objects of the Memorandum of Understanding through the General Manger's engagement of appropriate Council staff and to report monthly each year to a joint meeting of the Mayors and General Managers. The Meeting is to be held on a rotating basis at the Council Chambers of the three (3) Councils and be chaired by the host Mayor.

HAWKESBURY CITY

HORNBSY

THE HILLS SHIRE

Clr. Bart Bassett
Mayor

Clr. Nick Berman
Mayor

Clr. Peter Dimbrowsky
Mayor

Peter Jackson
General Manager

Robert Ball
General Manager

Dave Walker
General Manager

ATTACHMENT 1 - ITEM 31

33 COMPULSORY ACQUISITION - TIDC - EXTENSION TO BEROWRA COMMUTER CARPARK

On 27 July 2009 Hornsby Council received a proposed acquisition notice from the Transport Infrastructure Development Corporation (**TIDC**) under the *Land Acquisition (Just Terms) Act* for a road reserve at Berowra. The subject land was gazetted as a public road in Gazette No.108 of 23 September 1977 and vested in the Council. The land is zoned Special Uses B (Transport Corridor) under the Hornsby LEP 1994, which permits (amongst other things) multi unit housing with development consent.

The Council, on 22 October 2009 submitted a claim for compensation in accordance with s55 of the *Land Acquisition (Just Terms) Act* to TIDC together with a copy of a valuation in support of the claim. The valuation (in excess of \$0.5M) determined the market value of the land on the basis that the highest and best use was as multi-unit housing.

The amount of compensation payable, is affected by the status of TIDC as a Statutory State Owned Corporation and whether it represents the Crown.

TIDC was established as a Statutory State Owned Corporation under the *Transport Administration Act 1988*. That Act is silent as to whether or not the corporation is the Crown. Section 18F of the *Transport Administration Act* provides that the corporation may for any purposes of the corporation acquire land by agreement or by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.

The *State Owned Corporations Act 1989* deals with the status of Statutory State Owned Corporations. Section 20F of that Act provides that a Statutory State Owned Corporation is not and does not represent the State except by express agreement of the voting shareholders of the State Owned Corporation. Until 27 October 2009, no such agreement had been made by the voting shareholders of TIDC under Section 20F.

By letter dated 29 October 2009 TIDC advised Council that TIDC represented the State when acquiring land which is a public road under the *Roads Act 1993*.

Pursuant to a request from Council on 20 November 2009 TIDC forwarded to Council a copy of an agreement under Section 20F of the *State Owned Corporations Act 1989* signed by the two voting shareholders within the meaning of Section 3(1) of the *State Owned Corporations Act* to the effect that those shareholders agreed that TIDC represents the State when acquiring land which is a public road under the *Roads Act 1993*.

That agreement was signed by Minister for Roads, David Campbell on 10 September 2009 and countersigned by Eric Roozendaal (Treasurer) on 27 October 2009.

On 27 October 2009, the same day, as the agreement under s20F was signed by the Treasurer, the land was acquired by Compulsory Acquisition and the Notice of Compulsory Acquisition of the subject land was gazetted on 30 October 2009.

As a consequence of that agreement under Section 20F, the date of that agreement and the date of the gazettal of the acquisition notice, the provisions of Section 204 and following of the *Roads Act 1993* apply in lieu of the heads of compensation set out in the Land

Acquisition (Just Terms Compensation) Act 1991. Compensation payable to Council under the Roads Act is limited to costs incurred in acquisition, road construction and the like.

The agreement under s.20F by the Minister for Roads and the Treasurer was a deliberate act to deprive Council of its rights to compensation under s.55 of the Land Acquisition (Just Terms) Act, having already incurred the expense of obtaining a valuation based on s.55 of that Act and based on the highest and best use of the land.

Council's legal advice indicates that the process undertaken by the State is lawful, however, it is effectively another example of cost shifting from the State to local government. It also has deprived the Hornsby Shire Council and its residents of a source of funds to provide much needed infrastructure within the Shire.

It is proposed that Council request the Premier to adequately compensate Council for the deprivation of the Shire of much needed financial resources and request all local State Members to make representations on Council's behalf.

RECOMMENDATION

THAT Council

1. Make representations to the Premier The Hon. Kristina Keneally MP for adequate compensation to be paid to Council for the acquisition of land for the extension of the Berowra Community carpark.
2. Write to all its local State and Federal Members requesting their support in Council's representations to the Premier.
3. Write to the Presidents of the LGSA requesting that the Associations make representations on behalf of local government generally for amendment to the relevant legislation to ensure that in respect of compulsory acquisition by the Crown, proper compensation is determined and paid under the provisions of the Land Acquisition (Just Terms Compensation) Act.

NICK BERMAN
Mayor

Attachments:

There are no attachments for this report.

File Reference: F2009/00558
Document Number: D01299966

34 WILLOW PARK COMMUNITY CENTRE - LEASES OF ROOMS

At the 12 August 2009 Ordinary Meeting, Council considered Report No CC55/09 – Proposed Establishment of Wallarobba Arts and Cultural Centre – and resolved that:

1. *The contents of Executive Manager's Report No. CC55/09 be received and noted.*
2. *The Wallarobba Arts and Cultural Centre be developed at the existing site of the Willow Park Community Centre Homestead.*
3. *Council not renew the leases of the existing tenants at the Willow Park Community Centre Homestead and provide them with eight weeks' written notice of termination from 30 November 2009.*
4. *Hornsby Art Society be offered a lease of the rooms identified in the concept plan for the redeveloped Willow Park Community Centre Homestead under the relevant conditions of the Code for Lease/Licence of Council Land and Buildings by Community Groups, on the basis that the Society relinquishes their current tenancy of the Council owned property at 208 Pacific Highway, Hornsby.*
5. *On receipt of a written formal request by 18 September 2009 from any of the displaced tenants of the Willow Park Community Centre, Council staff provide assistance to them in identifying temporary short term accommodation which could be used whilst the displaced tenants identify and secure suitable longer term premises for their continued operations.*
6. *Further investigations be undertaken in respect of the potential sale of the Council owned property at 208 Pacific Highway, Hornsby to assist in the funding of stage 2 of the Willow Park Community Centre project.*
7. *Council continue to undertake consultation with the community and potential user groups in relation to the use of existing community facilities for cultural development.*

In accordance with point 5 of the resolution, four tenants contacted Council by 18 September 2009 seeking assistance from staff in identifying temporary short term accommodation which could be used whilst the tenants identified and secured suitable longer term premises for their continued operations. Those tenants were:

- Computer Pals for Seniors
- St John Ambulance
- Breakthrough Church
- Hornsby Business Alliance (former Chamber of Commerce)

Since being contacted by the tenants, staff members from the Community Services Branch have explored various options in conjunction with relevant Branches and/or the tenants concerned. Unfortunately, short term accommodation has not been able to be sourced for each displaced tenant at this point in time. This has led to a request from a number of the

tenants seeking an extension in the effective date of the termination of their tenancy at Willow Park.

Following discussions with appropriate staff, it has been determined that an extension until 31 March 2010 will not affect works associated with the conversion of the Willow Park Community Centre to the Wallarobba Arts and Cultural Centre. In this regard, refurbishment works are not expected to commence until early April 2010. It is noted that an extension of time until 31 March 2010 may also provide an opportunity for the tenants to finalise long term accommodation which they would be able to move into directly from Willow Park. This would make unnecessary any short term accommodation arrangements.

As a consequence of the above, it is proposed that upon receipt of a written request from an affected tenant, the effective date of the termination of their tenancy be extended until 31 March 2010. It is noted that, in recognition of such an extension being granted, the tenants will be required to acknowledge that no further extensions to the effective date of termination will be considered.

THAT

1. Upon receipt of a written request from an affected tenant, the effective date of the termination of their tenancy at Willow Park Community Centre be extended until 31 March 2010.
2. In recognition of such an extension being granted, the tenants will be required to acknowledge that no further extensions to the effective date of termination will be considered.

NICK BERMAN
Mayor

Attachments:

There are no attachments for this report.

File Reference: F2004/06416
Document Number: D01298741