



the bushland shire

creating a living environment

MINUTES OF ORDINARY MEETING

Held at COUNCIL CHAMBERS, HORNSBY
on Wednesday, 20 October, 2010
at 6.36 pm

PRESENT

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

NOTE: The Mayor arrived at the meeting at 7.13 pm. He was not present for Apologies / Leave of Absence, Declarations of Interest, Notices of Motion, Rescission Motions, Matters of Urgency and Items Passed by Exception. The Deputy Mayor, Councillor Hutchence assumed the chair for those matters.

NATIONAL ANTHEM

OPENING PRAYER

The Deputy Mayor opened the meeting in Prayer.

ACKNOWLEDGEMENT OF RELIGIOUS DIVERSITY

Statement by the Chairman:

This is page 1 of the Minutes of the Ordinary Meeting of Hornsby Shire Council held on 20 October, 2010.

GENERAL MANAGER

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."

AUDIO RECORDING OF COUNCIL MEETING

Statement by the Chairman:

"I advise all present that tonight's meeting is being audio recorded for the purposes of providing a record of public comment at the meeting, supporting the democratic process, broadening knowledge and participation in community affairs, and demonstrating Council's commitment to openness and accountability. The recordings will be made available on Council's website once the Minutes have been finalised. All speakers are requested to ensure their comments are relevant to the issue at hand and to refrain from making personal comments or criticisms."

APOLOGIES / LEAVE OF ABSENCE

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

THAT the apology and request for leave of absence from Councillor Chopra in respect of an inability to attend the Ordinary Meeting on 20 October, 2010 be accepted and leave of absence be granted.

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

AGAINST: NIL

PRESENTATIONS

The Mayor presented Council with the Emperor Qin Shi Huang's terra-cotta Warriors and Horses bronze plate, which was given to him during his visit to China in October, 2010.

DECLARATIONS OF INTEREST

COUNCILLOR BERMAN declared a less than significant non-pecuniary interest in respect of Item 21 – WK67/10 Works by Cameron Brae Pty Ltd at Dust Hole Bay, Berowra Waters. Refer to that Item for details.

This is page 2 of the Minutes of the Ordinary Meeting of Hornsby Shire Council held on 20 October, 2010.

GENERAL MANAGER

CHAIRMAN

COUNCILLOR RUSSELL declared a pecuniary interest in respect of Item 17 - WK63/10 Hornsby Overland Flow Study Report and Draft Flood Planning Maps. Refer to that Item for details.

The Deputy Mayor advised that the Acting General Manager, Mr Max Woodward had declared a significant non-pecuniary interest in Item 24 – WK71/10 Proposed Closure and Sale of Road Adjoining 396-398 Pacific Highway, Hornsby. Refer to that Item for details.

CONFIRMATION OF MINUTES

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

THAT the Minutes of the Ordinary Council Meeting held on Wednesday, 22 September, 2010 be confirmed, a copy having been distributed to all Councillors.

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

AGAINST: NIL

PETITIONS

Nil

MAYORAL MINUTES

31 MM12/10 Friendship Agreement - City of Xian

(F2004/06547)

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

THAT the General Manager prepare a report for Council's consideration which proposes an appropriate Memorandum of Understanding in respect of a Friendship Agreement with the City of Xian.

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

AGAINST: NIL

NOTICES OF MOTION

Nil

RESCISSION MOTIONS

Nil

This is page 3 of the Minutes of the Ordinary Meeting of Hornsby Shire Council held on 20 October, 2010.

GENERAL MANAGER

CHAIRMAN

MATTERS OF URGENCY

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

THAT COUNCILLOR SMART be permitted to raise a Matter of Urgency regarding a Review of Council's Internal Services.

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

AGAINST: NIL

32 MOU22/10 REVIEW OF INTERNAL SERVICES

(F2010/00369)

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

THAT:

1. A review of Council's internal services be undertaken by appointing an external consultant within the next 60 days.
2. The Manager, Financial Services obtain quotes from three consultants and the results be reported to the November 2010 Ordinary or Workshop Meeting in order to proceed with the review as soon as possible thereafter. Budget is to be determined by the quotes.
3. The review is to include all departments of Council and make recommendations of staff levels, service levels and structural changes with an end goal of increased productivity and cost savings of a minimum of 5% of budget.

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

AGAINST: 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, 7, 9, 10, 12, 17, 18, 21, 23, 24 and 25 were withdrawn for discussion.

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

This is page 4 of the Minutes of the Ordinary Meeting of Hornsby Shire Council held on 20 October, 2010.

GENERAL MANAGER

CHAIRMAN

THAT the recommendations in respect of items 2, 5, 6, 8, 11, 13, 14, 15, 16, 19, 20, 22, 26, and 29 be adopted.

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

AGAINST: NIL

NOTE: Items 27 and 28 were called over and noted.

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.

Persons wishing to address Council on non-agenda matters were permitted to speak after all items on the agenda in respect of which there was a speaker from the public were finalised by Council. Their names are recorded in the Minutes under the heading "Public Forum for Non-Agenda Items".

GENERAL BUSINESS

GENERAL MANAGER'S DIVISION

- 1 GM21/10 50:50 Vision - Councils For Gender Equity - Bronze Award Entry
(F2004/07178)**

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

THAT Council:

1. Participate in the 50:50 Vision – Councils for Gender Equity Program as detailed in General Manager’s Report No. GM21/10.
2. Endorse the following statement of commitment relating to gender equity:

“We will work towards increasing the representation of women in local government, both as elected members and senior managers and professionals.

We will undertake ongoing reviews of policies and practices to remove barriers to women’s participation and to engender safe, supportive working and decision-making environments that encourage and value a wide range of views.”

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

AGAINST: NIL

2 GM22/10 A Special Variation to General Income (Special Rate Levy)

(F2010/00460)

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

THAT:

1. Council agree in principle to seek approval for a special variation to general income in accordance with guidelines to be issued by IPART.
2. The value and extent of the special variation to general income be determined, in due course, by Councillors, taking account of community opinion and Council’s Resourcing Strategy.
3. Council continue to inform, consult and engage with the community regarding planning for the future and the special rate variation.

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

AGAINST: NIL

3 GM23/10 Councils Online Tender

This is page 6 of the Minutes of the Ordinary Meeting of Hornsby Shire Council held on 20 October, 2010.

GENERAL MANAGER

CHAIRMAN

(F2010/00561)

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

THAT consideration of General Manager's Report No. GM23/10 be deferred to the November 2010 Ordinary or Workshop Meeting such that details can be provided about whether progression of the tender may place constraints on Council's resolution in respect of Matter of Urgency No. MOU22/10 dealt with earlier in this meeting.

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

AGAINST: NIL

CORPORATE AND COMMUNITY DIVISION

4 CC60/10 Proposed Development of an Aboriginal Employment Strategy

(F2004/06064)

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

THAT:

1. The contents of Executive Manager's Report No. CC60/10 be received and noted.
2. Council not proceed with the creation of an Aboriginal Employment Strategy at this stage due to the lack of a demonstrable need.

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

AGAINST: NIL

5 CC62/10 2010/11 Investments and Borrowings - Report for period ending August 2010

(F2004/06987)

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

THAT the contents of Executive Manager's Report No. CC62/10 be received and noted.

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

AGAINST: NIL

6 CC63/10 Declarations of Pecuniary Interest and Other Matters

(F2009/00480)

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

THAT Council note that the Disclosure of Pecuniary Interests and Other Matters Returns recently lodged with the General Manager have been tabled as required by the Local Government Act.

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

AGAINST: NIL

7 CC64/10 2009/10 Audited Financial Statements - Presentation to the Public

(F2010/00065)

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

NOTE: Council's External Auditor, Mr Dennis Banicevic, of PricewaterhouseCoopers, addressed Council regarding this item and responded to questions raised by Mr. Nagy.

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

THAT the General Purpose and Special Purpose Financial Statements (including the Auditor's Report) for the year ended 30 June 2010, as presented to the public on 20 October 2010, be adopted.

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

AGAINST: NIL

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GENERAL MANAGER

CHAIRMAN

8 CC66/10 Tender No T11/2010 - Printing and Specialised Mailing Services

(F2010/00153)

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

THAT Council accept the following recommendations of the Evaluation Team for Tender No. T11/2010 in respect of those companies to be appointed to a panel of preferred suppliers for the categories of General Printing; Copying and Finishing; and Specialised Mailing Services (for Rates Notices). The appointment is to be for a two year period with an option to extend the contract for a further 12 months subject to satisfactory performance:

General Printing Category

- EcoDesign EcoPrint Pty Ltd
- Kwik Kopy Bondi Junction (P&S Kasper Holdings)
- Computershare (QM Technologies) Pty Ltd
- Norman McGrigor Printing Pty Ltd

Copying and Finishing Category

- Kwik Kopy Bondi Junction (P&S Kasper Holdings)
- Snap Printing (Drazwood Marketing)

Specialised Mailing Services (for Rates Notices) Category

- SEMA Group Pty Ltd

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

AGAINST: NIL

9 CC69/10 Hornsby Wood Working Men's Shed - Proposed Transfer of Lease

(F2008/00165)

This is page 9 of the Minutes of the Ordinary Meeting of Hornsby Shire Council held on 20 October, 2010.

Mr Ian Raper, on behalf of the Hornsby Wood Working Men's Shed, addressed Council regarding this item.

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

THAT:

1. The contents of Executive Manager's Report No. CC69/10 be received and noted.
2. Council note the consultation undertaken with, and the subsequent agreement of, the Hornsby Wood Working Men's Shed in relation to the proposal contained in Executive Manager's Report No. CC69/10.
3. Council not proceed with the extension to Headen Park Hall located at 3 Sinclair Avenue, Thornleigh.
4. Council approve the transfer of the lease conditions for the Hornsby Wood Working Men's Shed (as detailed in Executive Manager's Report No. CC23/10) from 3 Sinclair Avenue, Thornleigh (Headen Park Hall) to the old Carpenter's Workshop at the Council Depot at 33 Sefton Road, Thornleigh and delegate authority to the General Manager to execute same, subject to a), b) and c) below.
 - a) The lease term to be ten years.
 - b) Rental for Years 6 to 10 to be as follows:
 - i) Year 6 - \$5,000 per annum
 - ii) Year 7 – Year 6 rent + applicable CPI
 - iii) Year 8 – Year 7 rent + applicable CPI
 - iv) Year 9 – Year 8 rent + applicable CPI
 - v) Year 10 – Year 9 rent + applicable CPI
 - c) The hours of operation of any woodworking machinery be limited to 8.00 am to 4.00 pm Monday to Friday (excluding public holidays) and any proposal for additional hours of operation of machinery for woodworking activities be the subject of a development application.
5. The budget savings of approximately \$100,000 achieved by not proceeding with the extension of Headen Park Hall be used to partially fund the Council's projected budgeted deficit for 2010/11.
6. Following an asset inspection of Headen Park Hall, a further report be prepared for Council's consideration in respect of the future use of the facility.

A FORESHADOWED MOTION WAS MOVED BY COUNCILLOR MCMURDO

THAT:

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1. The contents of Executive Manager's Report No. CC69/10 be received and noted.
2. Council note the consultation undertaken with, and the subsequent agreement of, the Hornsby Wood Working Men's Shed in relation to the proposal contained in Executive Manager's Report No. CC69/10.
3. Council not proceed with the extension to Headen Park Hall located at 3 Sinclair Avenue, Thornleigh.
4. Council approve the transfer of the lease conditions for the Hornsby Wood Working Men's Shed (as detailed in Executive Manager's Report No. CC23/10) from 3 Sinclair Avenue, Thornleigh (Headen Park Hall) to the old Carpenter's Workshop at the Council Depot at 33 Sefton Road, Thornleigh and delegate authority to the General Manager to execute same.
5. The budget savings of approximately \$100,000 achieved by not proceeding with the extension of Headen Park Hall be used to partially fund the Council's projected budgeted deficit for 2010/11.
6. Following an asset inspection of Headen Park Hall, a further report be prepared for Council's consideration in respect of the future use of the facility.

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

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

AGAINST: COUNCILLORS MARTIN AND MCMURDO

ENVIRONMENT DIVISION

10 EN43/10 Domestic Waste Services Review

(F2004/08803)

This is page 11 of the Minutes of the Ordinary Meeting of Hornsby Shire Council held on 20 October, 2010.

GENERAL MANAGER

CHAIRMAN

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

THAT Council:

1. Note the anticipated increase in garbage disposal costs due to limited landfill options, the banning of some types of waste from landfill, the requirement to treat waste prior to landfill and increases in the waste levy imposed by the Department of Environment, Climate Change and Water (DECCW) as outlined in Executive Manager's Report No. EN43/10.
2. Endorse the proposed service reductions outlined in Table 1 of Executive Manager's Report No. EN43/10 in order to offset part of the expected increase in cost for garbage disposal service.
3. Endorse the review of the other services outlined in Executive Manager's Report No. EN43/10 over the next two years and that these reviews be progressively reported to Council for its consideration.

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

AGAINST: NIL

11 EN44/10 Catchments Remediation Rate Capital Works Program - Annual Report 2009-2010

(F2005/00829-02)

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

THAT the contents of Executive Manager's Report No. EN44/10 be received and noted.

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

AGAINST: NIL

12 EN45/10 Proposed Tree and Vegetation Element of Comprehensive Development Control Plan

(F2007/00707)

This is page 12 of the Minutes of the Ordinary Meeting of Hornsby Shire Council held on 20 October, 2010.

GENERAL MANAGER

CHAIRMAN

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

THAT:

1. Council endorse the three options for Element: Tree and Vegetation Protection for public consultation until 28 January, 2011 as outlined in Executive Manager's Report No. EN45/10.
2. A further report be prepared for Council's consideration after the public consultation period has finished.

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

AGAINST: NIL

13 EN46/10 Crown Land where Council is the appointed Reserve Trust Manager - Implications of recent changes introduced by the Land and Property Management Authority

(F2010/00002)

This is page 13 of the Minutes of the Ordinary Meeting of Hornsby Shire Council held on 20 October, 2010.

GENERAL MANAGER

CHAIRMAN

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

THAT:

1. Council support the Liverpool Council motion at the 2010 NSW Local Government Association Conference that would, in effect:
 - a) Confer on councils the option to accept or decline the proposed appointment as a reserve trust manager.
 - b) Remove the requirement for reserve trust managers to remit 15% of annual rental collected by the reserve trust to the Minister.
2. Council seek an opportunity to supplement the Liverpool Council motion by the addition of the following amendment:

“c) Ensure that councils have access to a reasonable share of **any** compensatory income from leases/licences and/or agreements on land within the care, control and management of councils.”
3. Council act on behalf of the LPMA only if the costs of its actions are reimbursed to Council out of proceeds.
4. Council make representations to the Minister for Lands in terms of the above expressing its dissatisfaction with current arrangements, which amounts to nothing more than a continuation of cost shifting from a higher order of government onto a council and request that the Minister for Lands vest certain crown reserves in Council for an estate in fee simple pursuant to section 75 of the Crown Lands Act 1989.
5. A report be prepared for Council’s consideration setting out possible additional options in the event that the Minister for Lands does not provide a satisfactory response to the above matters.

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

AGAINST: NIL

14 EN47/10 Sustainable Energy Code for Council Assets 2010

(F2004/09944-02)

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GENERAL MANAGER

CHAIRMAN

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

THAT Council endorse the Sustainable Energy Policy for Council Assets for implementation on 1 December, 2010.

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

AGAINST: NIL

PLANNING DIVISION

Nil

WORKS DIVISION

15 WK70/10 Re-establishment of an Alcohol Free Zone under the Local Government Act, 1993 in the Pennant Hills Commercial Centre Precinct

(F2004/08355)

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

THAT Council, by publication in a newspaper circulating in the area:

1. Give notice of its proposal to re-establish, for a period of four years, an alcohol free zone as described in 3 below.
2. Invite representations from within the area for a period of 14 days following publication of its intention, together with the local Police, local hoteliers and other holders of liquor licences in the area.
3. Consider a further report on submissions following the public consultation period prior to determining whether to re-establish an alcohol free zone located over Fisher Avenue, Hillcrest Road, Ramsay Road, Warne Street, Pennicook Lane, Geeves Lane, Fisher Avenue carpark, Yarrara Road, and Shields Lane, Pennant Hills, as shown in the Plan attached to Executive Manager's Report No. WK70/10.

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

AGAINST: NIL

16 WK6/10 Westleigh Access Improvement Works - Disposal of Residue Land, 25 Duffy Avenue, Thornleigh

(F2004/09774)

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

THAT:

1. Council make provision for future improvements at the intersection of The Esplanade and Duffy Avenue, Thornleigh (Option G).
2. Council proceed to dedicate the land required for road widening as public road and dispose of the residue of No. 25 Duffy Avenue, Thornleigh.
3. The proceeds of the disposal of the residue of No. 25 Duffy Avenue, Thornleigh be allocated in accordance with the “Land Property Sales – Use of Funds” policy.

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

AGAINST: NIL

17 WK63/10 Hornsby Overland Flow Study Report and Draft Flood Planning Maps

(F2010/00292)

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GENERAL MANAGER

CHAIRMAN

NOTE: COUNCILLOR RUSSELL 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 RUSSELL on the Declaration of Interest form as: "I own a property in the affected area which may be affected by declining property values due to this matter". COUNCILLOR RUSSELL was not present at, or in sight of, the Meeting when the item was being discussed or voted on.

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

THAT:

1. The Hornsby Overland Flow Study Report and the accompanying Draft Hornsby Shire Flood Planning Maps presented in Appendix 1 of Executive Manager's Report No. WK63/10, and the Overland Flow Maps presented in Appendix 2 of Executive Manager's Report No. WK63/10, be endorsed by Council and placed on public exhibition for a period of 28 days.
2. The Letter to Affected Property Owners and the FAQs leaflet attachment presented in Appendix 3 of Executive Manager's Report No. WK63/10 be approved by Council.
3. A further report be prepared for Council's consideration following the expiration of the public exhibition period and addressing the submissions received.

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

AGAINST: NIL

18 WK64/10 Compulsory Acquisition of Crown Land for Public Road - Lots 1-4 DP 1133368 Canoelands Road, Canoelands (formerly Glenorie)
(F2010/00308)

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

THAT:

1. Council apply to the Minister for Local Government and the Governor for approval to compulsorily acquire Lots 1-4 DP 1133368 Canoelands Road, Canoelands.
2. Upon acquisition, the land referred to in 1. above be dedicated as Public Road.
3. Funding of the acquisition be authorised as set out in Executive Manager's Report No. WK49/10.
4. The General Manager be delegated authority to negotiate detailed terms of agreement consistent with this report.
5. The General Manager be authorised to execute any document in relation to this matter deemed appropriate by Council's legal advisors.
6. If required by the absence of the General Manager or by legal statute, Council authorise the use of Council's Seal on any legal documents in relation to this matter deemed appropriate by Council's legal advisors, subject to review and authorisation by an Executive Manager of Council. The documents may include, but not be limited to:
 - a) Application for Compulsory Acquisition
 - b) Notice of Road Dedication
 - c) Deed of Agreement and Deed of Release
 - d) Registration of Transfer or Request

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

AGAINST: NIL

19 WK65/10 "Wellum Bulla" Hornsby Shire Council Materials Handling Facility Report on Operations as at 30 June, 2010

(F2004/09261)

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GENERAL MANAGER

CHAIRMAN

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

THAT the contents of Executive Manager's Report No. WK65/10 be received and noted.

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

AGAINST: NIL

20 WK66/10 Brooklyn Shared Pathway - Feasibility Study

(F2004/09762)

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

THAT Council adopt the final report for the Feasibility Study - Brooklyn Pathway Kangaroo Point to Parsley Bay for the purpose of public consultation and a further report be prepared for Council's consideration when the results of the public consultation are known.

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

AGAINST: NIL

21 WK67/10 Works by Cameron Brae Pty Ltd at Dust Hole Bay, Berowra Waters

(F2004/07838)

NOTE: COUNCILLOR BERMAN declared a less than significant non-pecuniary interest in the item under Clause 51A of Council's Code of Meeting Practice (see Declarations of Interest in these Minutes). The nature of interest was stated by COUNCILLOR BERMAN on the Declaration of Interest form as: "A person with an interest in this matter is known to me and has been a supporter in the past", and the explanation of why the interest does not require further action in the circumstances was "any association is not so close as to be significant".

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

THAT:

1. Council advise LPMA that it is prepared to accept responsibility for the future maintenance of the improvements constructed by Cameron Brae Pty Ltd pursuant to Development Application No. 1827/2007:

- Boardwalk
- Car park structure (excluding leased area and associated assets)
- Car park
- Landscaped areas

On the understanding that:

- i) the maintenance expenditure anticipated is not significant, and
 - ii) in the event that major repair or replacement of the structures (not being fair wear and tear) is required, financial assistance will be sought for such action from LPMA.
2. Subject to resolution of issues associated with the width of Bay Road, Berowra Waters in the vicinity of the boardwalk, Council agree to the dedication of the relevant land as part of Bay Road, Berowra Waters.

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

AGAINST: NIL

22 WK68/10 Expression of Interest 10/2010 - Lease of Land - Kangaroo Point, Brooklyn

(F2010/00310)

This is page 20 of the Minutes of the Ordinary Meeting of Hornsby Shire Council held on 20 October, 2010.

GENERAL MANAGER

CHAIRMAN

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

THAT:

1. Council invite Gen March Pty Limited and J & M Griffiths Pty Limited to tender for the lease of land – Kangaroo Point Brooklyn.
2. The result of the tender to be reported back to Council.

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

AGAINST: NIL

23 WK69/10 Hornsby Aquatic Centre Redevelopment - Project Management and Consultation

(F2009/00386)

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

THAT:

1. The contents of Executive Manager's Report No. WK69/10 be received and noted.
2. All Councillors be invited to attend Hornsby Aquatic Centre Redevelopment Working Party meetings, and the quorum for this Working Party requires only two Councillors to be present.

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

AGAINST: NIL

24 WK71/10 Proposed Closure and Sale of Road Adjoining 396-398 Pacific Highway, Hornsby

(F2010/00139)

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GENERAL MANAGER

CHAIRMAN

NOTE: Having declared a significant non-pecuniary interest in this matter, the Acting General Manager, Mr Max Woodward, left the meeting for consideration of this item. He was not present at, or in sight of, the meeting when the item was being discussed or voted on.

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

THAT:

1. Council apply for the closure as Public Road of that section of the Pacific Highway, formerly comprising road widening, as connects to the boundary of No. 396 - 398 Pacific Highway Hornsby.
2. Upon closure of the road, the land be classified Operational Land in accordance with the provisions of the Roads Act 1993 and the Local Government Act 1993.
3. Council approve sale of the closed road land to the owner of No. 396 - 398 Pacific Highway Hornsby on the terms outlined within Executive Manager's Report No. WK71/10.
4. The General Manager be authorised to execute all associated documents under Power of Attorney or pursuant to this delegation.
5. The General Manager be delegated authority to negotiate detailed terms of agreement consistent with Executive Manager's Report No. WK71/10.
6. Council authorise the making of an application for the Ministers approval for the road closure.

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

AGAINST: NIL

**25 WK72/10 Traffic Management in Lilli Pilli Street and Ward Street - Epping
(F2010/00133)**

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GENERAL MANAGER

CHAIRMAN

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

THAT Council consult further with Lilli Pilli Street Residents, Ward Street Residents, Epping YMCA, West Epping Public School and emergency services and the results be referred back to the Local Traffic Committee for a further recommendation before Council considers the matter again.

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

AGAINST: NIL

26 WK73/10 Proposed Review of Operational Land

(F2007/00275)

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

THAT:

1. The contents of Executive Manager's Report No. WK73/10 be received and noted.
2. Council endorse a review of Council's operational properties within the terms of reference included within Executive Manager's Report No. WK73/10.
3. The result of the review to be reported back to Council.

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

AGAINST: NIL

CONFIDENTIAL ITEMS

27 QWNHBM3/10 Remediation of Damage Caused by Flood Waters

The answer to this Question of Which Notice Has Been Given (QWNHBM) was deemed confidential, under Section 10A (2) (g) of the Local Government Act, 1993. This QWNHBM contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

(F2010/00632)

CALLED OVER AND NOTED.

29 CC67/10 Review of Services and Potential Sale of Property

This is page 23 of the Minutes of the Ordinary Meeting of Hornsby Shire Council held on 20 October, 2010.

This report was deemed confidential, under Section 10A (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.

(F2004/06091)

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

THAT:

1. The contents of Executive Manager's Report No CC67/10 be received and noted.
2. Council affect a strategic de-escalation of its commitment to child care over the next five years with the view to implementing a three centre model (one centre in each Ward)
3. Council investigate the provision of additional child care spaces in C Ward in order to provide an equal spread of service provision across the Shire
4. Council operate the Asquith Nursery and Preschool and Westleigh Nursery and Preschool as 29 place pre-school centres from January 2011 (excluding baby places) and place the proposed new service fees (\$75 per day for 2-5 year olds) on public exhibition in accordance with the requirements of the Local Government Act 1993
5. Investigations commence regarding the redevelopment of Hornsby Nursery and Preschool as the site of Council's A Ward child care centre noting that planning for the Storey Park redevelopment will continue to include a commitment to child care until the potential of the Hornsby Nursery and Preschool site is understood
6. Investigations associated with Hornsby Nursery and Preschool be treated as an adjunct to the Storey Park investigations and use of the same funding source (i.e. Section 94 Contributions)
7. Council provide in principle support for the closure of the Westleigh Nursery and Preschool from January 2012 noting that a further report will be provided on this subject in early 2011 where a final decision on the future of the site can be made
8. Formal investigations commence regarding the potential sale of 10 Eucalyptus Drive Westleigh (Westleigh Nursery and Preschool) and a further report be provided to Council on the matter when the investigations are completed.

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

AGAINST: NIL

PUBLIC FORUM – NON AGENDA ITEMS

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GENERAL MANAGER

CHAIRMAN

Mrs Wendy Wilson, of Beecroft, addressed Council regarding planning issues in Beecroft.

MAYOR'S NOTES

Item 30 MN10/10 MAYORS NOTES FROM 1 TO 30 SEPTEMBER 2010

Wednesday 1 September – The Mayor addressed the Hornsby Centrelink Planning Day at Asquith Leagues Club.

Wednesday 1 September – The Mayor attended the commissioning of the new production line at Wrigley's at Asquith.

Thursday 2 September – The Mayor attended the North West Metropolitan Region NSW Police Force Retirement Dinner for Mr Stephen Martlew at Asquith Leagues Club.

Friday 3 September – The Mayor attended Berowra Christian Community School's Opening Ceremony to dedicate and officially recognise the new BER funded facilities at the School.

Saturday 4 September – The Mayor attended the HDNA Grand Final Day Junior and Senior Presentations at Pennant Hills Netball Courts.

Saturday 4 September – The Mayor and Mrs Berman attended the Crusader Union of Australia's 80th Anniversary Celebration Lunch at Galston.

Saturday 4 September – The Mayor and Mrs Berman attended the Hornsby Hospital Blackwattle Ball at Hornsby RSL Club.

Tuesday 7 September – The Deputy Mayor, on behalf of the Mayor, attended the Rotary Club of Beecroft's Seniors Luncheon at Pennant Hills Golf Club.

Wednesday 8 September – The Mayor attended the CWA Awareness Day Informal Lunch at the Tea Rooms in Hornsby Park.

Wednesday 8 September – The Mayor attended the Grand Opening of Fortune Palace Seafood Restaurant at Carlingford.

Friday 10 September – The Mayor attended the opening of the Spiced Apple Studio Exhibition at Hornsby Art Gallery.

Saturday 11 September – The Mayor attended the opening of Hornsby Ku-ring-gai Community College's newly refurbished premises at Hornsby.

Saturday 11 September – The Mayor attended the Sri Lanka Association of NSW Annual Winter Ball at the Sofitel Sydney Wentworth Hotel.

Sunday 12 September – Mrs Berman, on behalf of the Mayor, attended the National Breast Cancer Foundation Gala Luncheon at Doltone House, Pyrmont.

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Sunday 12 September – The Mayor attended the Pakistani Flood Fundraising Luncheon at Crowne Plaza Norwest.

Monday 13 September – The Mayor attended the Lions Special Meeting to welcome the new 201N5 District Governor, Mr John Harrison, at Hornsby RSL Club.

Friday 17 September – The Mayor attended the Official Opening of the HAC Inc Arts Fanfare 2010 Exhibition One by Mrs Judy Hopwood MP at Hornsby Library.

Friday 17 September – The Mayor, Deputy Mayor, Councillor Chopra, Councillor Evans, Councillor Mills and Councillor Russell attended the Rural Fire Service Annual Dinner at Hornsby RSL Club.

Saturday 18 September – The Mayor attended the opening of Green Solar Solutions at Hornsby.

Saturday 18 September – The Mayor and Mrs Berman attended the Epping Rugby and Netball Club Annual Senior Rugby Presentation Night at The Epping Club.

Sunday 19 September – The Mayor officially opened the Bushland Shire Festival at Fagan Park.

Sunday 19 September – The Mayor presented the Hornsby Shire Cup Trophy at the Pennant Hills Men's Bowling Club competition at Pennant Hills.

Sunday 19 September – The Mayor and Mrs Berman attended the Hillslife Church Annual Heroes of the Hills Dinner and Awards Ceremony at Allure Restaurant at Dural.

Thursday 23 September – The Mayor attended the Farewell BBQ/Picnic for Thornleigh West Public School's Principal, Mr Phillip Wills, at the School.

Friday 24 September – The Mayor attended Loreto Normanhurst's Year 12 Awards Ceremony at the School.

Friday 24 September – The Mayor attended Carnivale ARTES Opening Night at Hornsby.

Friday 24 September – The Mayor attended the National Servicemen's Association of Australia (NSW Branch) Sydney Northern Sub-Branch Annual Banquet/Dinner to celebrate their 9th Birthday at Asquith Bowling and Recreation Club, Hornsby.

Saturday 25 September – The Mayor launched the Cherrybrook Sustainable Transport Map as part of Bike Week at Greenway Park, Cherrybrook.

Monday 27 September – The General Manager and Councillor Browne, on behalf of the Mayor, hosted a Citizenship Ceremony at Pennant Hills Community Centre.

Tuesday 28 September – Councillor Browne, on behalf of the Mayor, attended Pennant Hills Neighbour Aid Annual General Meeting at Pennant Hills.

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Tuesday 28 September – Councillor Browne, on behalf of the Mayor, attended the NZ v. Sydney Kings Basketball Game at the Brickpit Stadium, Thornleigh.

Thursday 30 September – The Deputy Mayor, on behalf of the Mayor, officially opened the Print Works Exhibition at Hornsby Art Gallery.

Note: These are the functions that the Mayor, or his representative, has attended in addition to the normal Council Meetings, Workshops, Mayoral Interviews and other Council Committee Meetings.

QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN

28 QWNHBM2/10 Outstanding Sullage Fees in Brooklyn

(F2004/08674-03)

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ASKED BY COUNCILLOR RUSSELL

TO THE EXECUTIVE MANAGER, ENVIRONMENT DIVISION:

Can you please provide answers to the following five questions from Mr Tom Richmond relating to outstanding sullage fees in Brooklyn:

1. Is it true that Council cannot provide certification for the flow meters used by Council's sullage service in the period 1997 to April, 2003, despite the fact that it knew that measurements during this period were under dispute? Is it also true that the Office of Fair Trading has no record of these meters having been certified?
2. Is it true that the flow meters in use on the service from 1997 to April 2003 were changed after figures based on Anne Graham's tank were presented to Council, revealing an error in the meters consistently in favour of Council?
3. Is it true that the meters fitted in April 2003 were not, at the time, certified, despite the fact that this is a requirement under the Trade Measurement Act? Was Council formally cautioned by the Office of Fair Trading as a result? Was that caution acknowledged by Mr Robert Holliday on behalf of Council?
4. Council claims that some, or all, of Mrs Graham's pump outs were measured using the trucks' sight gauges. The sight gauges were calibrated in 100s, so can Council explain how figures not ending in 50 or 100 form the majority of the alleged readings?
5. On 23 March, 2005, Mr Holliday presented a report to Council claiming that the Office of Fair Trading had "*...not raised any issues with the conduct and administration of the Council's sullage service.*" Was this report written before or after Mr Holliday acknowledged the formal caution?

ANSWERS:

NOTE: The following answers are provided as an open response to Cllr Russell's questions. However, as these matters are the subject of affidavits before the court, there should not be any discussion on them as it may prejudice Council's position.

1. The evidence provided as part of Council's sullage debt recovery includes a statutory declaration from Mr John Staples representing Council's contractor, BO & JL Staples Pty Ltd (Attachment 1). Point 1 of this statutory declaration refers to the flow meters on the tankers TLJ158, TVX791, PVN572 and RMV812, which were certified in or around 1997. Council has a copy of the Instrument Certification Form A108455 dated 1/10/97 (Attachment 2), which is for two of these flow meters and two of the sight gauges. Council was unable to locate a copy of the certification forms for the other two flow meters as the certifier and the contractor no longer retained records going that far back. Council has not sought a copy of the other certification form/s from the Office of Fair Trading (OFT).
2. The flow meters were not changed as a consequence of Mrs Graham's figures. The flow meters were not changed. The flow meters did not have an error consistently

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GENERAL MANAGER

CHAIRMAN

in favour of Council.

Through the Brooklyn Ratepayers Association (letter dated 6 December 2002, Attachment 3), data was provided to Council showing a difference between sight gauge and flow meter measurements. This data was originally provided by Council to demonstrate to a resident that a sewage management system might be faulty allowing air in the line impacting on the flow meter measurements. Flow meter readings are higher than sight gauge readings when a faulty sewage management system causes air in the line to be read by the meter. This does not substantiate a claim that a flow meter is faulty. Sight gauge measurements are not affected by air in the line and are used where this problem occurred. Any debtor was charged the lower of the two measurements.

This was explained to the Brooklyn Ratepayers Association (Attachment 4) and the concerned resident.

3. The question implies that new flow meters were installed in April 2003, which is incorrect. The only new flow meter in April 2003 was on tanker YMM236, which was newly converted from a petrol tanker to a sullage tanker and used as a spare vehicle for a few months on the Hornsby Shire Council sullage removal contract, before being transferred to the contractor's Eurobodalla Shire sullage removal contract. The sight gauge on this vehicle was certified for use on trade before it was used on any services within Hornsby Shire.

The flow meters on the other tankers were not changed in 2003. However, modifications to the pipe work on the tankers was carried out as part of the certification process, which was well underway, with the Instrument Certificate of Approval issued on 16 February 2004 and the instrument certification forms issued on 18 May 2004.

All tanker vehicles were fitted with two measurement instruments, the flow meter and the sight gauge, and the sight gauge was certified for use in trade at all times.

The councillors were advised by memo dated 22 August 2003 (Attachment 5) of the Office of Fair Trading (OFT) inspections of the sullage tankers and the instruction to cease using the flow meters because at the time they were not certified for use in trade.

Council was issued a formal warning from OFT on 3 September 2003 (Attachment 6), which was acknowledged by Mr Robert Holliday on behalf of Council on 16 September 2003 (Attachment 7).

After the flow meters were certified in May 2004 and Council approved their use once again, the contractor opted to continue to use the sight gauges as the primary measurement instrument. Consequently, all volumes removed by the sullage removal service from August 2003 until Council ceased the service to non-Council properties at the end of 2006 were carried out using the sight gauges.

4. Any allegation that the sight gauge readings during the period 29 October 2002 to

20 August 2003 were fabricated and were not legitimate because they were not divisible by 50 is incorrect. The sight gauge is marked in 100 litre intervals however, at the time in question it was common for some drivers to try to make the instrument more accurate than it was by interpolating between the markings to the nearest litre or ten litres. For example, a volume that appeared to be one third of the way between two markings would be interpolated as 33 litres when in fact it should have been read as 50 litres. This led to the measurement being expressed to a greater degree of accuracy than was consistent with the uncertainty of the measurement. As it is common convention to express accuracy by means of significant figures, this gave the impression that the measurement was more accurate (to the nearest litre) than it was (calculated to the nearest 50 litres). This does not mean that the measurements were fabricated or illegitimate.

After the sight gauges became the sole measurement instrument, Council instructed the contractor to ensure all drivers took sight gauge readings to the nearest 50 litres being half of the scale interval, which is the uncertainty in the measurement.

It is noted that the flow meters were accurate to the nearest litre.

5. Report EN11/05 (Attachment 8) was submitted to Council on 23 March 2005 to deal with then current matters and specifically the cost of the council service, recovery of outstanding debts and grey water diversion/treatment. The statement quoted is from the Report's short introduction/background, which was in no way comprehensive in relation to the extensive history of this matter. A reference to the certification of the flow meters was not included as this had already been conveyed to the Council by memorandum dated 22 August 2003 (see Attachment 6); some nineteen months earlier. Issues raised in respect of EN 11/05 by the Brooklyn Ratepayers Association are dealt with in the response from the NSW Ombudsman dated 22 February 2006 (Attachment 9).

CALLED OVER AND NOTED.

NOTE: Attachments in respect of the QWNHBM are available on Council's website.

QUESTIONS WITHOUT NOTICE

Nil

THE MEETING terminated at 9.00 pm.

These Minutes were confirmed at the meeting held on Wednesday, 17 November, 2010, at which meeting the signature hereunder was subscribed.

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GENERAL MANAGER

CHAIRMAN

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