



the bushland shire

creating a living environment

MINUTES OF PLANNING MEETING

Held at COUNCIL CHAMBERS, HORNSBY
on Wednesday, 1 December, 2010
at 6.37 pm

PRESENT

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

NATIONAL ANTHEM

OPENING PRAYER

Rev. Karina Kreminski of Community Life Church, Cherrybrook 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."

This is page 1 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 1 December, 2010.

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 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

Nil

POLITICAL DONATIONS DISCLOSURE

Statement by the Chairman:

"In accordance with Section 147 of the Environmental Planning and Assessment Act 1979, any person or organisation who has made a relevant planning application or a submission in respect of a relevant planning application which is on tonight's agenda, and who has made a reportable political donation or gift to a Councillor or employee of the Council, must make a Political Donations Disclosure Statement."

If a Councillor or employee has received a reportable political donation or gift from a person or organisation who has made a relevant planning application or a submission in respect of a relevant planning application which is on tonight's agenda, they must declare a non-pecuniary conflict of interests to the meeting, disclose the nature of the interest and manage the conflict of interests in accordance with Council's Code of Conduct."

PRESENTATIONS

The Mayor advised that Hornsby Shire Council had recently received the NSW Coastal Management Award in the Local Government Category and he presented the Award Certificate to Council. The Mayor thanked Council staff and those residents on the relevant Council Advisory Committees who have contributed to the Award.

This is page 2 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 1 December, 2010.

DECLARATIONS OF INTEREST

COUNCILLOR RUSSELL declared a pecuniary interest in respect of Item 13 - Mayoral Minute No. MM13/10 Hornsby Shire Overland Flow Study Report and Flood Planning Maps. Refer to that Item for details.

COUNCILLOR MARTIN declared a pecuniary interest in respect of Item 13 - Mayoral Minute No. MM13/10 Hornsby Shire Overland Flow Study Report and Flood Planning Maps. Refer to that Item for details.

CONFIRMATION OF MINUTES

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

THAT the Minutes of the Planning Meeting held on Wednesday 3 November 2010 be confirmed, a copy having been distributed to all Councillors.

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

AGAINST: NIL

PETITIONS

Nil

MAYORAL MINUTES

13 MM13/10 – Hornsby Shire Overland Flow Study Report and Flood Planning Maps

(F2010/00292)

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". COUNCILLOR RUSSELL was not present at, or in sight of, the Meeting when the item was being discussed or voted on.

NOTE: COUNCILLOR MARTIN 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 MARTIN on the Declaration of Interest form as: "My property is listed as flood prone". COUNCILLOR MARTIN 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 BERMAN, seconded by COUNCILLOR BROWNE,

THAT Council:

1. Note that the NSW Government has introduced a Flood Prone Land Policy that affects all Local Government areas in the State requiring all Councils to prepare Flood Planning Maps;
2. Note that the Hornsby Shire Overland Flow Study Report and Flood Planning Maps were brought before Council on 20 October 2010 when it was resolved unanimously to put both documents on public exhibition with residents invited to make submissions;
3. Confirm the extension of the closure of the exhibition period to Monday 28 February 2011;
4. Note that no properties have been rezoned or designated by Council as being flood-prone land;
5. Affirm that it will examine the submissions received and conduct on-site inspections where necessary to review which sites should be designated as flood-prone land in the final report and maps; and
6. Re-iterate its long-running support for the sewerage of Galston and Cowan and call upon both the NSW Government and Opposition to commit to the immediate priority planning and early construction of this sewerage program.

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

AGAINST: NIL

NOTICES OF MOTION

Nil

This is page 4 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 1 December, 2010.

RESCISSION MOTIONS

Nil

MATTERS OF URGENCY

Nil

ITEMS PASSED BY EXCEPTION / CALL FOR SPEAKERS ON AGENDA ITEMS

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

Items 1, 4, 5, 6 and 12 were withdrawn for discussion.

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

THAT the recommendations in respect of items 2, 3, 7, 8, 9, 10 and 11 be adopted.

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

AGAINST: NIL

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

DEVELOPMENT APPLICATIONS

A WARD DEFERRED

Nil

A WARD

1 PLN80/10 Development Application - Subdivision - One Lot into Six 59 Woodcourt Road, Berowra Heights

(DA/591/2010)

Mr Graeme Cosier, of Berowra Heights, addressed Council regarding this item.

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

THAT consideration of Development Application No. 591/2010 for the demolition of an existing dwelling and outbuildings and the subdivision of one allotment into six allotments at Lot 2 DP 502390 (No. 59) Woodcourt Road, Berowra Heights be deferred until the 2 February 2011 Planning Meeting to provide the applicant the opportunity to address the deficiencies in the application as set out in Executive Manager's Report No. PLN80/10.

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

AGAINST: NIL

**2 PLN81/10 Development Application - Industrial - Alterations and Additions
2A and 4 Kookaburra Road Hornsby Heights**

(DA/1157/2010)

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

THAT Development Application No. 1157/2010 for alterations and additions to an existing industrial premise including the addition of an upper floor level and extension to the rear of the building at Lot 4 DP 226427 (No 2A) and Lot 11 DP 701852 (No. 4) Kookaburra Road, Hornsby Heights be refused for the reasons detailed in Schedule 1 of Executive Manager's Report No. PLN81/10.

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

AGAINST: NIL

**3 PLN90/10 Development Application - Subdivision of One Allotment into
Two and Erection of an Affordable Housing Development Comprising 36
Units - 8A Northcote Road Hornsby**

(DA/746/2010)

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

THAT as the Applicant has withdrawn this development application, the matter not be further considered by Council.

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

AGAINST: NIL

**4 PLN68/10 Development Application - Change of Use to a Sex Services
Premises (brothel) 5/142 - 144 and 6/142 - 144 George Street, Hornsby**

(DA/1027/2010)

Mr Jason McDonald, on behalf of Hornsby World of Fitness, addressed Council regarding this item.

Mr Chris Blyth, consultant representing the applicant, addressed Council regarding this item.

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

THAT:

1. Development Application No. 1027/2010 for change of use to a sex services premises (brothel) at Lot 5 and Lot 6 SP 6089, Units, 5 and 6, Nos. 142-144 George Street, Hornsby be refused for the following reasons:
 - a. Insufficient car parking is provided for the development in accordance with Council's Car Parking Development Control Plan.
 - b. The proposal is not supported upon the site given its potential to impact upon both current and future uses on sites surrounding the subject property.
 - c. The proposal will create unacceptable cumulative impacts.
 - d. The development is likely to have an adverse social impact on the local community.
 - e. The development is likely to have an adverse economic impact on the local community.
 - f. The proposed development is not considered to be in the public interest.
2. As part of the construction of the Draft Hornsby Comprehensive Local Environmental Plan, "sex services premises" become a land use that is prohibited in all zones in Hornsby Shire other than the IN1 - General Industrial and IN2 - Light Industrial zones.
3. As part of the construction of the Draft Hornsby Comprehensive Development Control Plan, Council introduce strict controls for the siting and design of sex services premises to ensure that these premises are not located near schools, parks, places of worship, community facilities, dwellings and any other area that children and families are likely to congregate.

A FORESHADOWED MOTION WAS MOVED BY COUNCILLOR MCMURDO,

THAT Development Application No. 1027/2010 for change of use to a sex services premises (brothel) at Lot 5 and Lot 6 SP 6089, Units, 5 and 6, Nos. 142-144 George Street, Hornsby be approved subject to the conditions of consent detailed in Schedule 1 of Executive Manager's Report No. PLN68/10.

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

This is page 8 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 1 December, 2010.

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

AGAINST: COUNCILLORS MARTIN AND MCMURDO

B WARD DEFERRED

Nil

B WARD

Nil

C WARD DEFERRED

Nil

C WARD

Nil

**5 PLN72/10 Development Application - Construction Of An Affordable
Housing Development Comprising Eight Townhouses 3 & 5 Fulbourne
Avenue, Pennant Hills**

(DA/1021/2010)

Mr Brian O'Dowd, of Brian O'Dowd Planning and Design, acting for a consortium of residents in Fulbourne Avenue and Stevens Street, addressed Council regarding this item.

Ms Jennifer Reeves, of Pennant Hills, addressed Council regarding this item.

Mrs Heather Titley, of Pennant Hills, addressed Council regarding this item.

Ms Martha Mollison, of Pennant Hills, addressed Council regarding this item.

Mr Philip Cooper, of Pennant Hills, addressed Council regarding this item.

Ms Marcia Horvai, on behalf of the Pennant Hills District Civic Trust Inc., addressed Council regarding this item.

Mr Andrew Minto, of Glendinning Minto and Associates, acting on behalf of the applicant, addressed Council regarding this item.

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

THAT Council:

1. Defer consideration of this matter to the 2 February 2011 Planning Meeting to allow the professional consultant engaged by the residents to put in a submission regarding this proposal given the issues raised. The report of the Executive Manager accompanying this submission should include further information on how the Affordable Housing SEPP may address shortages of rental housing in the Hornsby Shire Local Government Area.
2. Write to the Minister for Planning expressing Council's utter dissatisfaction with State Environmental Planning Policy (Affordable Rental Housing) 2009 insofar as it overrides Council's planning controls and results in developments like the one proposed at 3-5 Fulbourne Avenue, Pennant Hills which are totally out of character with the neighbourhood and completely interfere with the amenity of the area. Consequently, Council request that the NSW Government immediately repeal the SEPP and replace it with planning policies that appropriately balance the need for affordable housing and community expectations.

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

AGAINST: NIL

**6 PLN82/10 Development Application - Erection of a Dwelling-House
2 Dawson Street, Epping**

(DA/1258/2010)

Mr Shaun Kay, of Epping, addressed Council regarding this item.

Mr Tim McDonald, of Epping, addressed Council regarding this item.

Mrs Joycelyn Richardson, of Epping, addressed Council regarding this item.

Mrs Elizabeth Calf, joint owner of the subject property, addressed Council regarding this item.

Mr Peter Calf, joint owner of the subject property and applicant, addressed Council regarding this item.

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

THAT Development Application No. 1258/2010 for the demolition of a dwelling-house and the erection of a dwelling-house and associated works at Lot 1 DP 28300, No. 2 Dawson Street, Epping be approved subject to the conditions of consent detailed in Schedule 1 of the Executive Manager's Report No PLN82/10, as amended by the following requirements:

1. The second paragraph of the Note under Tree Preservation Order in the ADVISORY NOTES attached to the conditions be amended to read:

All distances are determined under Australian Standard AS4970-2009 "Protection of Trees on Development Sites".

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

AGAINST: NIL

7 PLN83/10 Development Application - Subdivision - Two Lots into Four 11A and 15 Malton Road Beecroft

(DA/521/2010)

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

THAT as the Applicant has withdrawn this development application, the matter not be further considered by Council.

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

AGAINST: NIL

8 PLN88/10 Development Application - Erection of a Dwelling-House 40A Beecroft Road, Beecroft

(DA/1141/2010)

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

THAT Development Application No. DA/1141/2010 for the erection of a dwelling-house on Proposed Lot 101 within Lot 3 DP 407029, No. 40A Beecroft Road, Beecroft be approved subject the conditions of consent detailed in Schedule 1 of Executive Manager's Report No. PLN88/10.

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

AGAINST: NIL

GENERAL BUSINESS

9 PLN92/10 Draft Comprehensive Local Environmental Plan

(F2007/00692-03)

This is page 12 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 1 December, 2010.

GENERAL MANAGER

CHAIRMAN

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

THAT:

1. Council endorse the draft Comprehensive Local Environmental Plan attached to Executive Manager's Report No. PLN92/10 for consultation with relevant authorities and adjoining councils pursuant to Section 62 of the Environmental Planning and Assessment Act, 1979.
2. Should no objection or comments requiring significant amendment to the draft LEP be received from adjoining councils and/or the State Government agencies consulted pursuant to Sections 34A and Section 62 of the Environmental Planning and Assessment Act, 1979, the General Manager be delegated authority to make a submission to the Department of Planning pursuant to Section 64 of the Environmental Planning and Assessment Act, 1979 requesting certification to enable the draft LEP to be placed on public exhibition.
3. Upon certification for public exhibition, the draft Comprehensive Local Environmental Plan be exhibited for a minimum of 60 days in accordance with the consultation strategy attached to Executive Manager's Report No. PLN92/10.
4. The General Manager be delegated authority to endorse exhibition material, including the preparation of an Information Brochure for distribution to the community.
5. Following exhibition of the draft Comprehensive Local Environmental Plan, a report on submissions received in response to the public exhibition be presented to Council for its consideration.

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

AGAINST: NIL

10 PLN93/10 Epping Town Centre Study - Update Report

(F2010/00546)

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

THAT the contents of Executive Manager's Report No. PLN93/10 be received and noted.

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

AGAINST: NIL

11 PLN94/10 Kangaroo Point - Brooklyn Development Control Plan Amendments

(F2010/00285)

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

THAT:

1. Council endorse for public exhibition the draft amendments to the Brooklyn Development Control Plan attached to Executive Manager's Report No. PLN94/10 to limit the size of any future commuter berthing facility at Kangaroo Point to a maximum of 25 boats of up to 6m in length and within the existing wet lease area.
2. Public exhibition of the draft Brooklyn Development Control Plan amendments be undertaken for a minimum of 28 days in accordance with the consultation strategy contained in Executive Manager's Report No. PLN94/10.
3. Following the exhibition, a report on submissions be presented to Council.

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

AGAINST: NIL

SUPPLEMENTARY AGENDA

CONFIDENTIAL ITEMS

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

THAT Council move into Confidential Session to discuss Item 12, for the reason given below the item.

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

AGAINST: NIL

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

THAT Council move out of Confidential Session.

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

This is page 14 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 1 December, 2010.

GENERAL MANAGER

CHAIRMAN

AGAINST: NIL

12 WK83/10 Proposed Closure of Hornsby Aquatic Centre

This report was dealt with in Confidential Session, under Section 10A(2)(a) of the Local Government Act, 1993 for the reason that the recommendation contained in the report affected staff currently employed by the Council.

(F2004/08949-02)

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

THAT:

1. The contents of Executive Manager's Report No. WK83/10 be received and noted, and the actions taken or foreshadowed, endorsed.
2. Council cease operation of the Hornsby Aquatic Centre in December 2010.
3. Council not proceed further with calling for Expressions of Interest for the operation of Epping and Galston Aquatic Centres.
4. Council explore opportunities to bring forward the design and construction of a replacement facility, to be further reported to Council in connection with progress of this project.
5. Executive Manager's Report No. WK83/10 be made public.

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

AGAINST: NIL

QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN

Nil

QUESTIONS WITHOUT NOTICE

Nil

THE MEETING terminated at 9.28 pm.

This is page 15 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 1 December, 2010.

GENERAL MANAGER

CHAIRMAN

These Minutes were confirmed at the meeting held on Wednesday, 2 February, 2011, at which meeting the signature hereunder was subscribed.

CONFIRMED

CHAIRMAN

This is page 16 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 1 December, 2010.

GENERAL MANAGER

CHAIRMAN