



the bushland shire

creating a living environment

MINUTES OF ORDINARY MEETING

Held at COUNCIL CHAMBERS, HORNSBY
on Wednesday, 16 March, 2011
at 6.36pm

PRESENT

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

NOTE: Councillor Browne arrived at the meeting at 6.46pm during consideration of Items Passed by Exception/Call for Speakers on Agenda Items. He was not present for Apologies/Leave of Absence, Declarations of Interest and Confirmation of Minutes.

NATIONAL ANTHEM

OPENING PRAYER

Rev. David Misztal, of Dural District Anglican Churches, 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 16 March, 2011.

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 HUTCHENCE,

THAT the apology and request for leave of absence from Councillor Chopra in respect of an inability to attend the Ordinary Meeting on 16 March, 2011 be accepted and leave of absence be granted.

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

AGAINST: NIL

PRESENTATIONS

Nil

DECLARATIONS OF INTEREST

Nil

CONFIRMATION OF MINUTES

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

This is page 2 of the Minutes of the Ordinary Meeting of Hornsby Shire Council held on 16 March, 2011.

THAT the Minutes of the Ordinary Council Meeting held on Wednesday 16 February, 2011 be confirmed, a copy having been distributed to all Councillors.

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

AGAINST: NIL

PETITIONS

Nil

MAYORAL MINUTES

Nil

NOTICES OF MOTION

NOTE: Notice of Motion No. NOM3/11 is included in the 'Supplementary Reports' section of these Minutes.

RESCISSION MOTIONS

Nil

MAYORAL MINUTES

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, 2, 8, 12 and 13 were withdrawn for discussion.

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

THAT the recommendations in respect of items 3, 4, 5, 6, 7, 9, 10 and 11 be adopted.

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

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GENERAL MANAGER

CHAIRMAN

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.

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 – Non Agenda Items".

GENERAL BUSINESS

GENERAL MANAGER'S DIVISION

1 GM4/11 Code of Conduct Complaints

(F2004/07038-02)

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

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

THAT the contents of General Manager's Report No. GM4/11 be received and noted.

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

AGAINST: NIL

2 GM5/11 Complaint About Hornsby Shire Council - Mr Peter Waite

(F2004/07038-02)

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

Mr Clive Troy, of Beecroft, addressed Council regarding this item.

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

THAT the contents of General Manager's Report No. GM5/11 be received and noted.

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

AGAINST: NIL

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CORPORATE AND COMMUNITY DIVISION

3 CC11/11 Outstanding Council Resolutions - Period Until 30 November 2010

(F2005/00112)

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

THAT the contents of Executive Manager's Report No. CC11/11 be received and noted.

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

AGAINST: NIL

4 CC12/11 Declarations of Pecuniary Interest and Other Matters Returns - Councillors and Designated Persons

(F2010/00368)

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

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 BERMAN, BROWNE, EVANS, HUTCHENCE, MARTIN, MCMURDO, MILLS, RUSSELL AND SMART

AGAINST: NIL

5 CC14/11 Wallarobba Arts and Cultural Centre and the Proposed Sale of a Council Property in Hornsby

(F2004/06091)

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

THAT:

1. The contents of Executive Manager's Report No. CC14/11 be received and noted.
2. Council endorse a minimum three year hire arrangement of the Garden Room at Wallarobba Arts and Cultural Centre by the Hornsby Art Society at the fee rate nominated in the Fees and Charges noting that this rate will change annually in accordance with the CPI.

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GENERAL MANAGER

CHAIRMAN

3. Council endorse the method of payment for the use of the Garden Room by the Hornsby Art Society as being 75% via in-kind contributions in the form of volunteer labour and 25% as cash.
4. Council endorse a 90% discount on hire fees for the Hornsby Art Society at Wallarobba Arts and Cultural Centre and Hornsby Leisure and Learning Centre for a minimum period of three years as described in Executive Manager's Report No. CC14/11.
5. Subject to the above points, Council formally terminate Hornsby Art Society's tenancy of Unit 99, 208-226 Pacific Highway, Hornsby as of 30 June 2011 and provide written advice of the same to the tenant.
6. Council waive the monthly rental fee associated with Unit 99, 208-226 Pacific Highway, Hornsby between the period that the Hornsby Art Society transition to the Wallarobba Arts and Cultural Centre and the lease termination date nominated at Point 5 above, noting that the Art Gallery will only remain open during this period in order to host the Returned to Glory Exhibition which is a project operated by the Hornsby Art Society in conjunction with Council's Waste Management Services Branch.
7. Council approve the sale of Unit 99, 208-226 Pacific Highway, Hornsby (Lot 99 SP54729) on the terms outlined within the confidential attachment to Executive Manager's Report No. CC14/11.
8. Council suspend the 'Use of Funds Generated by Land Property Sales' Policy in respect of this matter and provide for the use of the net proceeds of the sale of Unit 99, 208-226 Pacific Highway, Hornsby to be allocated towards the cost of Stage 2 of the Wallarobba Arts and Cultural Centre project.
9. The General Manager be authorised to negotiate terms of the Contract for Sale of Land and execute all associated documents under Power of Attorney or pursuant to this delegation.

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

AGAINST: NIL

**6 CC15/11 2010/11 Investments and Borrowings Report for Period Ending
January 2011**

(F2004/06987)

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

THAT the contents of Executive Manager's Report No. CC15/11 be received and noted.

FOR: COUNCILLORS BERMAN, BROWNE, EVANS, HUTCHENCE, MARTIN,

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GENERAL MANAGER

CHAIRMAN

MCMURDO, MILLS, RUSSELL AND SMART

AGAINST: NIL

ENVIRONMENT DIVISION

7 EN7/11 Domestic Waste Services - Infirm Household Policy

(F2004/08803)

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

THAT Council adopt the policy for Domestic Waste Services to Infirm Households set out in Executive Manager's Report No. EN7/11.

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

AGAINST: NIL

8 EN5/11 Green Offsets Code Review

(F2007/01418)

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

THAT Council adopt the proposed changes to the Green Offsets Code identified in Executive Managers Report No. EN5/11.

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

AGAINST: NIL

PLANNING DIVISION

Nil

WORKS DIVISION

9 WK12/11 "Wellum Bulla" - Hornsby Shire Council Materials Handling Facility Monitoring Committee

(F2004/09261-02)

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

THAT Council note the Minutes of Meeting 1/11 of "Wellum Bulla" – Hornsby Shire

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GENERAL MANAGER

CHAIRMAN

Council Materials Handling Facility Monitoring Committee held on 17 February 2011 attached to Executive Manager's Report No. WK12/11.

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

AGAINST: NIL

10 WK13/11 Tender No. T3/2011: Sprayed Bituminous Surfacing

(F2011/00020)

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

THAT Council accept the tender of SRS Roads Pty Ltd for all work under Tender No. T3/2011: Sprayed Bituminous Surfacing.

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

AGAINST: NIL

11 WK14/11 Tender No. T2/2011: Construction of New Retaining Wall - Berowra Waters Road, Berowra Heights

(F2011/00076)

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

THAT:

1. Council accept the tender of Sporting Services (Construction) Pty Ltd, trading as Pan Civil, for all work under Tender No. T2/2011: Construction of New Retaining Wall – Berowra Waters Road, Berowra Heights, for the lump sum price as stated in Confidential Memo (WD D&C06/2011) attached to Executive Manager's Report No. WK14/11.
2. Hours for the works be 9.00am to 3.00pm, Monday to Friday.
3. The price be made public on formal acceptance of the tender.
4. Should additional funding be required for this project, it be made available from the Douglas Avenue, Wahroonga Local Road Project and be reflected in a future budget review.

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

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AGAINST: NIL

SUPPLEMENTARY REPORTS

12 NOM3/11 Carbon Pricing Impacts

(F2009/00174)

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

THAT the Executive Manager, Environment prepare a report for Council's consideration outlining the possible implications of a carbon tax on Council's activities.

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

AGAINST: NIL

NOTE: At this point in the meeting, the time being 7.47pm, the Mayor adjourned the meeting. The meeting resumed at 7.53pm.

CONFIDENTIAL ITEMS

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

THAT Council move into Confidential Session to discuss Item 13, for the reason given below the item.

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

AGAINST: NIL

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

THAT Council move out of Confidential Session.

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

AGAINST: NIL

13 GM7/11 Hornsby Shire Council -v- Anne Graham - Recovery of

This is page 9 of the Minutes of the Ordinary Meeting of Hornsby Shire Council held on 16 March, 2011.

GENERAL MANAGER

CHAIRMAN

Outstanding Sullage Charges

This report was dealt with in confidential session, under Section 10A (2) (g) of the Local Government Act, 1993. This report contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

(F2010/00460)

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

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

THAT the contents of confidential General Manager's Report No. GM7/11 be received and noted.

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

AGAINST: NIL

PUBLIC FORUM – NON AGENDA ITEMS

Mr Wally Rodin, of Epping, addressed Council regarding the Hornsby Overland Flow Study and Draft Planning Maps considered by Council at the Ordinary Meeting of 20 October 2010, in Executive Manager's Report No. WK63/10.

MAYOR'S NOTES

14 MN3/11 Mayor's Notes from 1 to 28 February 2011

(F2004/07053)

Saturday 5 February – The Mayor and Mayoress attended the commemoration of the 63rd Anniversary of Independence of Sri Lanka at Roselea Community Centre, Carlingford.

Wednesday 9 February – The Deputy Mayor, on behalf of the Mayor, attended a Ceremony to celebrate the establishment of the Sydney Adventist Hospital Clinical School of the University of Sydney at Wahroonga.

Sunday 13 February – The Mayor, Mayoress and Councillor Chopra attended the Cherrybrook Chinese Community Association Chinese New Year (of the Rabbit) Celebration Dinner at Castle Hill.

Tuesday 15 February – The Mayor attended Asquith Public School's Official Opening Ceremony for the new Classroom block completed under the Federal Government's BER Program at Asquith.

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Wednesday 23 February – The Mayor, Councillor Browne and Councillor Chopra attended the Grand Opening of Lifestart and Pennant Hills Neighbour Aid Hornsby Premises at Pennant Hills.

Friday 25 February – The Deputy Mayor, on behalf of the Mayor, attended St Gerard’s Catholic Primary School Blessing and Opening of their Federal Government BER Funded Project at Carlingford.

Friday 25 February – The Deputy Mayor, on behalf of the Mayor, attended Our Lady Help of Christians Catholic Primary School’s Official Blessing and Opening of their Federal Government BER Funded Project at Epping.

Friday 25 February – The Mayor attended a Farewell Cocktail Reception for His Excellency Mr Hu Shan on concluding his term as Consul General of the People’s Republic of China in Sydney, at Camperdown.

Friday 25 February – The Mayor hosted a Queensland Flood Fundraising Dinner at Crowne Plaza Norwest, at Baulkham Hills.

Saturday 26 February – The Mayor welcomed residents to “Movies Under the Stars” at Ruddock Park, Westleigh.

Monday 28 February – The Mayor officiated at three Citizenship Ceremonies held at the Council Chambers.

Note: Please note that 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.

CALLED OVER AND NOTED.

QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN

Nil

QUESTIONS WITHOUT NOTICE

Nil

THE MEETING terminated at 8.27pm.

These Minutes were confirmed at the meeting held on Wednesday, 20 April, 2011, at which meeting the signature hereunder was subscribed.

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GENERAL MANAGER

CHAIRMAN

CONFIRMED

CHAIRMAN

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GENERAL MANAGER

CHAIRMAN