



the bushland shire

creating a living environment

MINUTES OF PLANNING MEETING

Held at COUNCIL CHAMBERS, HORNSBY
on Wednesday, 6 April, 2011
at 6.33pm

PRESENT

Councillors Berman (Chairman from 6.33pm to 7.41pm for consideration of Apologies/Leave of Absence, Declarations of Interest, Confirmation of Minutes, Petitions, Items Passed by Exception/Call for Speakers on Agenda Items and Item 5), Browne, Chopra, Evans, Hutchence (Chairman from 7.41pm to 9.47pm for consideration of Items 1, 4, 6, 7, 9, 10 and 11), Martin, McMurdo, Mills, Russell and Smart

NOTE: Councillor Hutchence arrived at 6.50pm during discussion of Item 5. He was not present for Apologies/Leave of Absence, Declarations of Interest, Confirmation of Minutes, Petitions and consideration of Items Passed by Exception/Call for Speakers on Agenda Items.

NOTE: Councillor Browne arrived at 7.02pm during discussion of Item 5. He was not present for Apologies/Leave of Absence, Declarations of Interest, Confirmation of Minutes, Petitions and consideration of Items Passed by Exception/Call for Speakers on Agenda Items.

NATIONAL ANTHEM

OPENING PRAYER

This is page 1 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 6 April, 2011.

GENERAL MANAGER

CHAIRMAN

Rev. Robert Denham of St Peter's Anglican Church, Hornsby 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."

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."

This is page 2 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 6 April, 2011.

GENERAL MANAGER

CHAIRMAN

DECLARATIONS OF INTEREST

COUNCILLOR BERMAN declared a less than significant non-pecuniary interest in Item 4 - PLN21/11 - Development Application - Section 96(2) - Erection of an 11 storey mixed use building - 135 - 137 Pacific Highway and Pound Road Reserve, Hornsby. 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 2 March 2011 be confirmed, a copy having been distributed to all Councillors.

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

AGAINST: NIL

PETITIONS

COUNCILLOR MARTIN tabled a petition of 631 signatures objecting to the Development Application for erection of a McDonalds Restaurant at 361-365 Pennant Hills Road, Pennant Hills (Item 5).

COUNCILLOR MILLS tabled a petition of 131 signatures in support of the signalisation of the pedestrian crossing at the intersection of New Line Road, Shepherds Drive and County Drive, Cherrybrook.

MAYORAL MINUTES

NOTE: Mayoral Minute No. MM3/11 is included in the 'Supplementary Reports' section of these Minutes as Item 10.

NOTICES OF MOTION

Nil

RESCISSION MOTIONS

Nil

MATTERS OF URGENCY

NOTE: A Matter of Urgency was raised later in the Meeting and is included after the 'Supplementary Reports' section of these Minutes as Item 11.

ITEMS PASSED BY EXCEPTION / CALL FOR SPEAKERS ON AGENDA ITEMS

This is page 3 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 6 April, 2011.

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, 7, 9 and 10 were withdrawn for discussion.

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

THAT the recommendations in respect of items 2, 3 and 8 be adopted.

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

AGAINST: NIL

For the sake of clarity, the above items are recorded in Agenda sequence.

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

DEVELOPMENT APPLICATIONS

A WARD DEFERRED

Nil

A WARD

1 PLN2/11 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.
Mr Ian Glendinning, on behalf of the applicant, addressed Council regarding this item.

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

THAT 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 refused for the reasons detailed in Schedule 1 of Executive Manager's Report PLN2/11.

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

This is page 4 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 6 April, 2011.

GENERAL MANAGER

CHAIRMAN

AGAINST: NIL

2 PLN24/11 Development Application – Erection of a Dwelling House & Conversion of the Existing Dwelling House to a Rural Structure – 27 Bay Road, Arcadia

(DA/1634/2010)

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

THAT Development Application No. 1634/2010 for the erection of a dwelling house and the conversion of the existing dwelling house to a rural structure at Lot 2, DP 234025, No. 27 Bay Road, Arcadia be approved subject to the conditions of consent detailed in Schedule 1 of Executive Manager's Report No. PLN24/11, as amended by the following requirements:

1. Modify Condition 8 to read:

8. Ongoing Protection of Existing Vegetation

The existing vegetation identified adjacent to the front boundary (shown clouded) on the Site Plan No. 0000_002 B must be fenced off to prevent vehicular access.

2. Modify Condition 14 to read:

14. Design and Construction - North and East Elevations

Construction on the northern and eastern elevations must comply with Australian Standard AS3959-2009, Section 9. However, any material, element of construction or system when tested to the method described in Australian Standard AS1530.8.2 must comply with Clause 13.8 of that Standard except that flaming of the specimen is not permitted.

Note: To understand the Australian Standard AS1530.8.2, Clause 13.8 allows for the material or element of construction to flame (i.e. ignite or burn) for a set time frame. The Rural Fire Service position is that this is not acceptable in the Flame Zone and the above condition excludes any material that flames. Therefore only non-combustible materials can be used when in the Flame Zone in accordance with modified Section 9 of Australian Standard AS3959-2009.

3. Modify Condition 25 to read:

25. Ongoing Protection of Existing Vegetation

The area of the site identified adjacent to the front boundary (shown clouded) on the Site Plan No. 0000_002 B must remain undisturbed and be protected in accordance with the following requirements:

- a. The area must be kept free of noxious weeds using recognised bush regeneration methods in accordance with '*Recovering bushland on the*

This is page 5 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 6 April, 2011.

GENERAL MANAGER

CHAIRMAN

Cumberland Plain: Best practice guidelines for the management and restoration of bushland – Department of Conservation 2005’; and

- b. Machinery and fertilizer must not be used in the area for maintenance purposes.

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

AGAINST: NIL

**3 PLN31/11 Development Application - Telecommunications Facility
Arcadia Park, 127X Arcadia Road, Arcadia**

(DA/1436/2010)

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

THAT Development Application No. 1436/2010 for the erection of a telecommunications facility including a mobile phone tower and associated equipment and shelter at Lot 761, DP 1121447, No. 127X Arcadia Road, Arcadia be approved in accordance with the recommendation of the independent town planning consultant’s report by Nexus Environmental Planning Pty Ltd, and the conditions of consent detailed in Schedule 1 of Executive Manager’s Report No. PLN31/11.

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

AGAINST: NIL

B WARD DEFERRED

Nil

B WARD

4 PLN21/11 Development Application - Section 96(2) - Erection of an 11 storey mixed use building - 135 - 137 Pacific Highway and Pound Road Reserve, Hornsby

(DA/1586/2001/D)

NOTE: COUNCILLOR BERMAN declared a less than significant non-pecuniary interest in this item under Clause 51A of Council’s Code of Meeting Practice (see Declarations of Interest in these Minutes). The nature of interest was stated by COUNCILLOR BERMAN on the Declaration of Interest form as “I personally know people representing both sides of the argument in relation to this matter”.

This is page 6 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 6 April, 2011.

GENERAL MANAGER

CHAIRMAN

NOTE: COUNCILLOR BERMAN left the meeting prior to consideration of this item and did not return.

Mr Michael Wilson, of Hornsby, addressed Council regarding this item.

Mr Sam Restifa, on behalf of the applicant, addressed Council regarding this item.

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

THAT Development Application No. 1586/2001/D to modify Development Consent No. 1586/2001 for the construction of a mixed use development comprising 104 residential units and one level of commercial and retail units at Lot 1, DP 606694, Lot 2, DP 606694, Nos. 135-137 Pacific Highway and Pound Road Reserve, Hornsby be refused for the following reasons:

1. Pursuant to the provisions of Section 79C1(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development, with its excessive height and floor space ratio, would be inconsistent with objective (c) of the Residential D (High Density) zone in that it will not be within the environmental capacity of the Pound Road Precinct.
2. Pursuant to the provisions of Section 79C1(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development would be inconsistent with the density controls which have been consistently applied by the Council in the Pound Road Precinct and hence contrary to the Density Design Principle of State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development and Clause 15 of the Hornsby Shire Local Environmental Plan 1994.
3. Pursuant to the provisions of Section 79C1(b) of the Environmental Planning and Assessment Act 1979, the proposed development would be inconsistent with the scale of existing development in the Pound Road Precinct and hence contrary to the Scale Design Principle of State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development.
4. Pursuant to the provisions of Section 79C1(b) of the Environmental Planning and Assessment Act 1979, the proposed development would be inconsistent with the height controls which have been consistently applied by the Council in the Pound Road Precinct and hence contrary to the requirements of the High Density Multi-Unit Housing Development Control Plan.
5. Pursuant to the provisions of Section 79C1(e) of the Environmental Planning and Assessment Act 1979, the proposed development would not be in the public interest as reducing the employment generating floor space within the building is inconsistent with the recommendations of the Ku-ring-gai & Hornsby Subregional Employment Study May 2008, which identifies an employment target of 3,000 additional jobs within the Hornsby town centre and an additional floor space demand of 196,901 sqm. Consequently, any justification for an increase in the height, bulk and scale of the development as previously determined in DA/1586/2001/B is removed.

This is page 7 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 6 April, 2011.

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

AGAINST: NIL

C WARD DEFERRED

Nil

C WARD

**5 PLN28/11 Development Application - Erection of a McDonalds Restaurant
361- 365 Pennant Hills Road, Pennant Hills**

(DA/1427/2010)

Mr Brad Walters, on behalf of the Local Residents Action Group, addressed Council regarding this item.

Mr Ian Williams, on behalf of the Local Residents Action Group, addressed Council regarding this item.

Mr Andrew Dryburgh, on behalf of the Local Residents Action Group, addressed Council regarding this item.

Mr Martin Squires, on behalf of the applicant, addressed Council regarding this item.

Mr Tim Rogers, on behalf of the applicant, addressed Council regarding this item.

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

THAT Development Application No. 1427/2010 for the demolition of existing structures and the erection of a new McDonalds restaurant with basement car parking and drive-thru facility, associated landscape works and erection of twenty-three signs at Lots 35, 34 and 33, DP 262566, Nos. 361-365 Pennant Hills Road, Pennant Hills be refused for the reasons detailed in Schedule 1 of Executive Manager's Report No. PLN28/11.

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

AGAINST: NIL

**6 PLN35/11 Development Application - Subdivision of two Lots into Four
39 and 41 Becroft Road, Becroft**

(DA/1298/2010)

Mr Graeme Baker, of Becroft, addressed Council regarding this item.

Dr Matthew Wilson, of Becroft, addressed Council regarding this item.

Mr Peter Graham, on behalf of the applicant, addressed Council regarding this item.

MOVED ON THE MOTION OF COUNCILLOR MARTIN, seconded by COUNCILLOR

This is page 8 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 6 April, 2011.

GENERAL MANAGER

CHAIRMAN

BROWNE,

THAT Development Application No. 1298/2010 for the subdivision of two lots into four at Lot 12, DP 20759 and Lot 13, DP 20759, Nos. 39 and 41 Beecroft Road, Beecroft be refused for the following reasons:

1. The proposal is unsatisfactory in respect to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as the proposal does not comply with the Residential Subdivision, Dwelling and Byles Creek Development Control Plans as follows:
 - 1.1 The proposal does not comply with the allotment density prescriptive measure for a larger lot size on steeply sloping sites.
 - 1.2 The proposal does not comply with the private open space performance criteria.
 - 1.3 The proposal does not meet the drainage control element objective.
 - 1.4 The proposal does not meet the access way design element objective.
2. The proposal is unsatisfactory in respect to Section 79(1)(e) of the Environmental Planning and Assessment Act, 1979, as the proposal is not in the public interest.
3. The necessary written consent of downstream property owners, for granting of access to an existing stormwater drainage easement, has not been obtained.

AN AMENDMENT WAS MOVED BY COUNCILLOR RUSSELL, seconded by COUNCILLOR EVANS,

THAT consideration of this matter be deferred to enable the applicant to address matters of non-compliance with Council officers and to have further negotiations with neighbouring landowners regarding access to the existing private stormwater easement through their properties.

THE AMENDMENT, MOVED BY COUNCILLOR RUSSELL, seconded by COUNCILLOR EVANS WAS PUT AND LOST.

FOR: COUNCILLORS CHOPRA, EVANS AND RUSSELL

AGAINST: COUNCILLORS BROWNE, HUTCHENCE, MARTIN, MCMURDO, MILLS AND SMART

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

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

AGAINST: NIL

This is page 9 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 6 April, 2011.

GENERAL MANAGER

CHAIRMAN

GENERAL BUSINESS

7 PLN33/11 Townhouse Planning Proposal - Development Control Plan Amendments

(F2010/00389)

Mrs Helen Hajduk, of Mount Colah, addressed Council regarding this item.

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

THAT:

1. Council endorse for public exhibition the draft amendments to the Medium Density Multi-Unit Housing Development Control Plan attached to Executive Manager's Report No. PLN33/11.
2. Public exhibition of the draft Medium Density Multi-Unit Housing 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. PLN33/11.
3. Following the exhibition, a report on submissions be presented to Council.

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

AGAINST: NIL

8 PLN34/11 Brooklyn DCP Amendments - Kangaroo Point - After Exhibition

(F2010/00285)

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

THAT:

1. Council approve the draft amendments to the Brooklyn Development Control Plan attached to Executive Manager's Report No. PLN34/11 to limit the size of any future commuter berthing facility at Kangaroo Point.
2. Submitters be advised of Council's resolution.

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

AGAINST: NIL

This is page 10 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 6 April, 2011.

GENERAL MANAGER

CHAIRMAN

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

THAT Council forward a letter of congratulations to The Hon. Barry O'Farrell MP, Premier and Minister for Western Sydney, Mr Matt Kean MP, Mr Dominic Perrottet MP, The Hon. Greg Smith MP, Attorney General and Minister for Justice, and Mr Ray Williams MP on their election to the NSW State Legislative Assembly.

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

AGAINST: NIL

MATTERS OF URGENCY

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

THAT Councillor Hutchence be permitted to raise a Matter of Urgency regarding the 2010 Hornsby Housing Strategy Local Environmental Plan (LEP).

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

AGAINST: NIL

11 MOU1/11 2010 Hornsby Housing Strategy Local Environmental Plan

(F2004/07491-07)

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

THAT:

1. The Minister for Planning and Infrastructure be urged not to delegate his authority to make the Housing Strategy LEP to unelected bureaucrats, but instead to personally consider the implications of the Housing Strategy on the residents of Hornsby Shire.
2. The Minister for Planning and Infrastructure be urged to defer the Hornsby Housing Strategy in its current form to allow Council to work more closely with the State Government in developing a proposal for Hornsby Shire that is palatable to the majority of residents rather than the current Housing Strategy, which was opposed by approximately 90% of residents.
3. The Minister for Planning and Infrastructure be advised that Council wishes to meet its challenges for increased densities by way of focusing in on its major centres such as

Epping, Pennant Hills and Hornsby in the longer term, subject to adequate infrastructure provision for those centres and by identifying shortcomings in current housing choice in the Shire and exploring possibilities of medium densities in certain areas.

4. The Mayor write to the Minister for Planning and Infrastructure seeking a meeting with interested Councillors and senior Council officers to discuss options for a revised Housing Strategy.
5. Council identify budget implications and funding sources for progressing a Housing Strategy and master plan for the precincts nominated as part of a revised Housing Strategy.
6. Council officers write to the Sydney Metropolitan Development Authority with a view to nominating Pennant Hills as a potential precinct for renewal under the SEPP (Urban Renewal) 2010 and to determine whether the Authority would be interested in partnering with Council to redevelop this precinct.

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

AGAINST: NIL

CONFIDENTIAL ITEMS

Nil

QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN

Nil

QUESTIONS WITHOUT NOTICE

Nil

THE MEETING terminated at 9.47pm.

These Minutes were confirmed at the meeting held on Wednesday, 4 May, 2011, at which meeting the signature hereunder was subscribed.

CONFIRMED

CHAIRMAN

This is page 13 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 6 April, 2011.

GENERAL MANAGER

CHAIRMAN

This is page 14 of the Minutes of the Planning Meeting of Hornsby Shire Council held on 6 April, 2011.

GENERAL MANAGER

CHAIRMAN