



the bushland shire

creating a living environment

MINUTES OF PLANNING MEETING

Held at COUNCIL CHAMBERS, HORNSBY
on Wednesday, 6 July, 2011
at 6.37pm

PRESENT

Councillors Berman (Chairman for consideration of all items except Item 4), Chopra, Evans, Hutchence (Chairman for consideration of Item 4), Martin, McMurdo, Mills, Russell and Smart

NOTE: The Mayor, having declared a less than significant non-pecuniary interest in Item 4, left the meeting for consideration of that item. The Deputy Mayor, Councillor Hutchence, assumed the chair for that item.

NATIONAL ANTHEM

OPENING PRAYER

The Mayor opened the meeting in prayer.

ACKNOWLEDGEMENT OF RELIGIOUS DIVERSITY

Statement by the Chairman:

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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 acknowledge we are on the traditional lands of the Darug and Guringai Peoples. We pay our respects to elders past and present."

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 Browne in respect of an inability to attend the Planning Meeting on 6 July 2011 be accepted and leave of absence be granted.

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

AGAINST: 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

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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."

DECLARATIONS OF INTEREST

COUNCILLOR HUTCHENCE declared a less than significant non-pecuniary interest in Item 2 - PLN47/11 Development Application - Multi-Unit Housing Development comprising Seventeen Townhouses and Strata Subdivision - 4 - 12 Kita Road, Berowra Heights. Refer to that Item for details.

COUNCILLOR BERMAN declared a less than significant non-pecuniary interest in Item 4 - PLN51/11 Development Application - Section 96(AB) - Erection of an Eleven 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 HUTCHENCE,

THAT the Minutes of the Planning Meeting held on Wednesday 1 June 2011 be confirmed, a copy having been distributed to all Councillors.

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

AGAINST: NIL

PETITIONS

Nil

MAYORAL MINUTES

Nil

NOTICES OF MOTION

Nil

RESCISSION MOTIONS

Nil

MATTERS OF URGENCY

Nil

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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, 3, 4 and 6 were withdrawn for discussion.

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

THAT the recommendations in respect of items 5, 7 and 8 be adopted.

FOR: COUNCILLORS BERMAN, CHOPRA, EVANS, HUTCHENCE, 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 PLN45/11 Development Application - Section 96(2) Modification to a Seniors Living Development comprising 150 Independent Living Units and a Community Facility - 599 - 607 Old Northern Road, Glenhaven

(DA/1709/2007/E)

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

THAT Development Application No. 1709/2007/E in respect of a seniors living development comprising 154 independent living units, community facility and ancillary works at Lot 2 DP 1123753, Nos. 599-607 Old Northern Road, Glenhaven be approved as detailed in Schedule 1 of Executive Manager's Report No. PLN45/11.

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

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AGAINST: NIL

2 PLN47/11 Development Application - Multi-Unit Housing Development comprising Seventeen Townhouses and Strata Subdivision - 4 - 12 Kita Road, Berowra Heights

(DA/1615/2010)

NOTE: COUNCILLOR HUTCHENCE 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 HUTCHENCE on the Declaration of Interest form as "One of the objectors is known to me through a community organisation" and the explanation of why the interest does not require further action in the circumstances was "Interest in less than significant".

Mrs Vanessa Crago, of Berowra Heights, addressed Council regarding this item.

Mr Robert Ledger, of Berowra Heights, addressed Council regarding this item.

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

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

THAT Development Application No. 1615/2010 for the demolition of the existing structures and the erection of a medium density multi-unit housing development comprising seventeen two-storey townhouses, car parking and strata subdivision at Lots 3, 4, 5, 6 and 7 DP 232401, Nos. 4 – 12 Kita Road, Berowra Heights be approved subject to the conditions of consent detailed in Schedule 1 of Executive Manager's Report No. PLN47/11.

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

AGAINST: NIL

3 PLN50/11 Development Application - Section 96(1A) - Subdivision of One Allotment into Two - 146 Galston Road and 14 Robinson Close, Hornsby Heights

(DA/452/2008/B)

NOTE: The General Manager was not present at, or in sight of, the Meeting when this Item was being discussed or voted on.

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

THAT Council move in to Confidential Session in accordance with Section 10A(2)(g) of the Local Government Act 1993 to discuss the confidential attachment to Executive Manager's Report No. PLN50/11. The attachment to the Report contains advice concerning litigation or

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GENERAL MANAGER

CHAIRMAN

advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

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

AGAINST: NIL

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

THAT Council move out of Confidential Session.

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

AGAINST: NIL

Mr Chris Gough, Senior Partner, Storey & Gough Lawyers, acting on behalf of Council, responded to questions from the Council during closed session.

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

THAT Development Application No. 452/2008/B in respect of the subdivision of one allotment into two at Lots 101 and 102, DP 1149208, No. 146 Galston Road and No. 14 Robinson Close, Hornsby Heights be approved with condition 38 being amended to read as follows:

38. To offset the value of the dedication of land for road widening purposes, zero additional payment is required for one additional allotment, towards the cost of transport and traffic management, open space and recreation facilities, library and community facilities, bushland regeneration, stormwater drainage, civic improvements and Section 94 Plan administration in accordance with Sections 94, 94A and 94C of the Environmental Planning and Assessment Act, 1979 and the Hornsby Shire Council's Development Contributions Plan 2007-2011. The contribution is based on a rate of nil per dwelling or additional allotment based on the offset of the value of the dedication of land for road widening purposes.

A FORESHADOWED MOTION WAS MOVED BY COUNCILLOR RUSSELL,

THAT Development Application No. 452/2008/B in respect of the subdivision of one allotment into two at Lots 101 and 102, DP 1149208, No. 146 Galston Road and No. 14 Robinson Close, Hornsby Heights be refused on the following grounds:

1. Pursuant to sub-section 94B (1) of the Environmental Planning and Assessment Act 1979, the Council is only able to levy a contribution under Section 94 if that

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GENERAL MANAGER

CHAIRMAN

contribution is provided for in a Section 94 Contributions Plan. The Hornsby Shire Council Development Contributions Plan 2007-2011 does not provide for an amendment to Condition 38 of Development Consent No. 452/2008 as requested by the applicant.

2. Pursuant to Section 79C(1)(e) Environmental Planning and Assessment Act 1979, it is considered that the approval of the development would not be in the public interest.

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

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

AGAINST: COUNCILLOR RUSSELL

B WARD DEFERRED

Nil

B WARD

- 4 **PLN51/11 Development Application - Section 96(AB) - Erection of an Eleven 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: "The applicant is known to me" and the explanation of why the interest does not require further action in the circumstances was "It is some time since I have had dealings with the applicant". COUNCILLOR BERMAN was not present at, or in sight of, the Meeting when the matter was being discussed or voted on.

NOTE: In view of the Mayor's advice that he would be leaving the Meeting during discussion and voting of Item 4, the Deputy Mayor assumed the Chair for consideration of the Item.

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

THAT Development Application No. DA/1586/2001/D in respect of the construction of a mixed use development comprising 106 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 approved as detailed in Schedule 1 of Executive Manager's

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GENERAL MANAGER

CHAIRMAN

Report No. PLN51/11.

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

AGAINST: NIL

C WARD DEFERRED

**5 PLN52/11 Development Application - Subdivision Of One Lot Into Two
37 Cardinal Avenue, Beecroft**

(DA/1375/2010)

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

THAT Development Application No. 1375/2010 for the subdivision of one lot into two at Lot
22 DP 21629, No. 37 Cardinal Avenue, Beecroft be approved subject to the conditions of
consent detailed in Schedule 1 of Executive Manager's Report No. PLN52/11.

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

AGAINST: NIL

C WARD

**6 PLN49/11 Development Application - Section 96(2) - Recreation Facility
(indoor) - Alterations and additions - West Epping Park and Oval - 15X
Ward Street, Epping**

(DA/19/2010/A)

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

THAT:

1. Development Application No. 19/2010/A to stage works in respect of alterations and
additions to an existing recreation facility and extension of the existing car park area at
West Epping Park and Oval, Lot 100 DP 834523, No. 15X Ward Street, Epping be
approved subject to the conditions of consent detailed in Council's Notice of
Determination of DA No. 19/2010 dated 7 April 2010.
2. The Executive Manager, Environment identify options to provide a monetary
contribution to fund a portion of the YMCA improvements and prepare a report on
these options for Council's consideration.

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

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GENERAL MANAGER

CHAIRMAN

MCMURDO, MILLS, RUSSELL AND SMART

AGAINST: NIL

GENERAL BUSINESS

7 PLN29/11 Voluntary Planning Agreement - DA/1470/2009 39 Hannah Street, Beecroft

(DA/1470/2009)

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

THAT:

1. The General Manager be authorised to execute the Voluntary Planning Agreement, held at Attachment A of Executive Manager's Report No. PLN29/11.
2. A copy of the Voluntary Planning Agreement be forwarded to the NSW Department of Planning for its records.
3. A copy of the Voluntary Planning Agreement be placed on Council's website for public inspection.

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

AGAINST: NIL

8 PLN53/11 Amendments to the Medium Density Multi-Unit Housing Development Control Plan - Report on Submissions

(F2010/00389)

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

THAT:

1. Council approve the draft amendments to the Medium Density Multi-Unit Housing Development Control Plan attached to Executive Manager's Report No. PLN53/11.
2. Submitters be advised of Council's resolution.

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

AGAINST: NIL

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GENERAL MANAGER

CHAIRMAN

QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN

Nil

SUPPLEMENTARY AGENDA

Nil

CONFIDENTIAL ITEMS

NOTE: Council moved into Confidential Session for discussion of the confidential attachment to Executive Manager's Report No. PLN50/11 (Item 3). See that Item for details.

QUESTIONS WITHOUT NOTICE

Nil

THE MEETING terminated at 7.53pm.

These Minutes were confirmed at the meeting held on Wednesday, 3 August 2011, at which meeting the signature hereunder was subscribed.

CONFIRMED

CHAIRMAN

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GENERAL MANAGER

CHAIRMAN