



the bushland shire

creating a living environment

SUPPLEMENTARY BUSINESS PAPER

ORDINARY MEETING

**Wednesday, 19 October, 2011
at 6.30pm**

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15 PROPOSED LEASE - 17 STATION STREET, HORNSBY

BACKGROUND

At its Ordinary meeting on 20 July 2011, Council considered Executive Manager's Report No. WK39/11, and resolved *inter alia*, that:

2. *The current Licence with the Country Women's Association (CWA) be terminated at as 1 March 2012...*
6. *Council's Community Services Branch work with the CWA to find temporary accommodation arrangements for the CWA in Council's existing community facilities in the period 1 March 2012 and the opening of the new Hornsby Aquatic Centre.*

In accordance with Council's resolution, Council officers worked with the CWA to find temporary accommodation arrangements for it in Council's existing community facilities. As a result of the limited availability of suitable premises, the scope of the search widened to include privately owned and commercial premises, in accordance with the desire of the CWA to remain on the West side of Hornsby.

Ultimately four premises were presented to the CWA. Executive Manager's Report No. WK59/11 submitted to the Ordinary meeting of Council on 21 September 2011, provided details of the outcome of actions in relation to the relocation opportunities presented to the CWA.

On consideration of the report, Council resolved *inter alia*, that:

5. *Council note that the Country Women's Association (CWA), Hornsby Branch has been offered temporary accommodation up until the finalisation of the construction of the Hornsby Aquatic Centre. The temporary accommodation offers at Willow Park, the War Memorial Hall and two commercial properties on the western side of Hornsby were offered at Council's expense and all have been rejected by the CWA members.*
6. *Council express its disappointment at the non acceptance by the CWA members of Council's offers and request that advice be forwarded by the CWA to Council by 21 October 2011 outlining their re-location intentions.*

DISCUSSION

Subsequent to the above Ordinary meeting, Council's General Manager and Executive Manager Planning, continued relocation negotiations with the CWA.

In an email dated 13 October 2011 the CWA unanimously confirmed a motion *That Hornsby Branch of the CWA commence negotiations with Hornsby Shire Council to temporarily*

relocate our Branch and activities to the RAMS Building during the pool reconstruction. Further, the CWA sought to commence negotiations with Council to “fit out” the premises in order to provide a functional, multiuse, community meeting space for the duration of the Aquatic Centre construction. Additions such as a kitchen and storeroom, display cabinets and privacy blinds were included in the “fit out” requirements of the CWA.

The fit out of the premises is currently being negotiated between the parties. Solutions range in cost from \$11,500 to about \$22,000.

The “RAMS” Building is known as 17 Station Street, Hornsby and was the premises recommended by Council officers as representing the best value for money and the best premises fit for the CWA purposes.

The premises provide high quality modern office/retail space, with level access from Station Street, basic kitchen facilities and an internal disabled toilet. They are conveniently located opposite the Hornsby Railway Station, bus and taxi interchange and enjoy excellent exposure and accessibility.

The premises comprise approximately 95m² of fully air conditioned and carpeted office/retail space with a modern glazed shop front. The configuration of the premise allows for a fit out that meets the needs of the CWA and other community group occupiers and presents a good overall outcome for both the CWA and Council.

The overall intent is to as closely as possible place the CWA in the same position as it existed prior to the proposal to redevelop the Hornsby Pool. In this respect it is proposed that the CWA will occupy the RAMS building under the same terms and conditions currently applying in respect to their current tenancy arrangements in Hornsby Park. Provision will be made to allow the CWA to occupy the RAMS building until such time as alternative accommodation is available in the Hornsby Aquatic Centre redevelopment.

Council’s Manager Land and Property Services has concluded negotiations for Council to lease the subject premises. The agreed lease terms are detailed in the confidential attachment to this report. The attachment is considered confidential as it discloses information of a personal financial nature of the Landlord.

The cost associated with the relocation of the CWA is considered to be a “development expense” of the Hornsby Aquatic Centre Project, and it is therefore recommended that the funding of the costs of relocation be sourced from the Hornsby Aquatic Centre cost centre.

RECOMMENDATION

THAT:

1. Council agree to enter into a lease agreement and sub lease agreement with the CWA of the premises known as 17 Station Street Hornsby generally in accordance with the salient agreed lease terms outlined in the confidential attachment to Mayoral Minute 13/11.
2. Council provide the General Manager with the authority to negotiate more detailed lease terms, generally consistent with the agreed lease terms.

3. Council authorise the use of Council's Seal on the Lease and sub lease in relation to this matter as deemed appropriate by Council's legal advisers.
4. Council agree to funding the costs of relocation of the Country Women's Association (CWA), including lease rental as outlined in the confidential attachment to this report, legal expenses in relation to the lease, and the estimated costs of fit out, moving expenses and make good expenses.
5. The funding of the relocation of the CWA be provided from the Hornsby Aquatic Centre development cost centre.

NICK BERMAN
Mayor

Attachments:

1. Attachment 1 - Confidential Attachment - Proposed Lease 17 Station Street, Hornsby - *This attachment should be dealt with in confidential session, 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.*

File Reference: F2004/06308
Document Number: D01783114

16 GENERAL MANAGER - DELEGATION AND POWER OF ATTORNEY

PURPOSE/OBJECTIVE

To approve the delegated authority and power of attorney for the General Manager Mr Scott Frederick PHILLIPS.

DISCUSSION

Council by resolution dated 21 September 2011 appointed Mr Scott Frederick PHILLIPS as General Manager and it is appropriate for Council to give consideration to the delegations and power of attorney to be granted.

Also the authority to affix the common Seal of Council to the associated employment contract was omitted from the Council resolution dated 21 September 2011 and has consequently been included in the recommendations.

A Council may, by resolution, delegate to the General Manager or any other person or body (not including another employee of the Council) any of the functions of the Council other than matters set out in s377 of the Local Government Act. The General Manager may delegate, or sub-delegate, any of the functions of a General Manager, other than this power of delegation, to any person or body, including another employee of the Council. A regulatory function of a council cannot be delegated or sub delegated to a person or body other than a committee of the Council, the members of which are all Councillors, or are either Councillors or employees of the council, or an employee of the council.

Council must resolve to delegate its functions, in accordance with the above, to the General Manager who in turn delegates functions to designated staff.

Council has also previously granted to the General Manager a Power of Attorney and a credit card for official Council expenditure only.

A Power of Attorney is no more than a legal authority to act in a certain capacity given by one person/entity to another. The Power to act can be wide or limited depending on the instrument of appointment. A suggested form of Power of Attorney is contained within the recommendation. It should be noted that this Power of Attorney does not give the General Manager any more powers than the proposed delegations provide. That is, those functions specifically prohibited by Section 377 from being delegated, still operate. For instance, if Council wished to sell some land, Council would have to specifically resolve to do so. However, it would not be necessary for Council to resolve to affix the Seal to any of the documents relating to the transaction as those documents could be executed by the General Manager under the Power of Attorney. The Seal would then not be required to be affixed to the documents.

The granting of a Power of Attorney to the General Manager has the following benefits:

- 1) Council would not have to specifically resolve to affix the Seal to documents which the General Manager or other Officers have the authority to execute, such as positive covenants, restrictions as to users, leases and licences.
- 2) It would not be necessary for the Mayor or a Councillor to have to be present to sign a document which otherwise requires the Seal of Council.
- 3) A Power of Attorney can be registered at the Land Titles Office and as such, is evidence in its own right of the necessary Council authorisation should a document signed by the attorney be presented for registration.
- 4) It greatly reduces the existing administrative procedures required to execute documents.
- 5) It would reduce instances of delay for Council customers requiring dealings to be executed by Council.

Should Council agree with the approach to grant such Power of Attorney, the Power of Attorney document would then be executed under Council's Seal. From then on, documents executed pursuant to the Power of Attorney would not need to be sealed with Council's Seal, merely signed by the General Manager as the person appointed as Council's attorney. Of course, this would not prevent Council specifically resolving to affix its Seal to certain documents at any time in the future.

Having regard to the abovementioned information the matter is submitted to Council for consideration.

RECOMMENDATION

THAT:

- A. Pursuant to the powers of delegation conferred on Council by Sections 377 and 381 of the Local Government Act 1993 and by Section 151 of the Environmental Planning and Assessment Act 1979 and pursuant to every other power it hereunto enabling, Council delegate to Scott Frederick PHILLIPS, General Manager of the Council, the power to exercise all the functions, powers, duties and authorities conferred upon Council pursuant to:-
 1. the Local Government Act 1993; and
 2. the Environmental Planning and Assessment Act 1979; and
 3. all other Acts whatsoever under which Council has functions, powers, duties and authorities; and
 4. all regulations, by-laws, rules and the like made by or under any of the Acts referred to in 1, 2 or 3 above; and
 5. a Memorandum of Understanding with the Department of Lands to exercise the powers under Section 35 and Section 36 of the Roads Act 1993 on behalf of the Minister; and

6. Section 12 and Section 18a and Section 18 and Section 19 and Section 20(1) and Section 20(2) and Section 20(3) and Section 28 and Section 29 and Section 30 and Section 32 and Section 36a and Section 41 and Section 45 Section 46 and Section 47 and Section 50 and Section 54 and Section 55 and Section 64 of the Noxious Weeds Act 1993.

Subject To any resolution made from time to time by the said Council and provided always that such delegation of powers shall not and shall not be deemed to extend to:-

1. any of the matters expressly reserved to the Council in Section 377 of the Local Government Act 1993;
2. the alteration of the meeting cycle of Council;
3. the overview and direction of business activities;
4. the role of the Mayor as provided for in and determined under Section 226 of the Local Government Act 1993;
5. major unique items where no policy, practice or code of the Council exists;
6. adoption of Local Environmental Plans, Development Control Plans and Section 94 Contribution Plans pursuant to the Environmental Planning and Assessment Act 1979;
7. adoption of Council policies and codes;
8. items in respect of which the Mayor or a Councillor has specifically requested the General Manager to place before Council for determination by Council;

and that subject to the provisions of the Local Government Act 1993 and the other Acts referred to above the functions, powers, duties and authorities hereby delegated by Council to the General Manager pursuant to this resolution be unlimited as to the period during which they may be exercised.

- B. Council appoint the General Manager, Mr Scott Frederick PHILLIPS to be its attorney to exercise, subject to any conditions and limitations specified hereunder, the authority conferred on him by Section 163B of the Conveyancing Act, 1919, to do on the Council's behalf anything it may lawfully authorise an attorney to do:-

Conditions and Limitations

This attorney is limited to the execution of documents, dealings and instruments relating to the following matters:-

- i) The creation (whether by acquisition or other means), disposal or extinguishment of an interest in land;
- ii) The creation, disposal or extinguishment of a right, obligation or interest other than in land;
- iii) Contracts for works, services and supply of goods.

- C. Authority be granted for the Common Seal of Council to be affixed to the Power of Attorney.
- D. Authority be granted to the General Manager to operate a credit card for official Council expenditure only.
- E. Authority be granted for the Common Seal of Council to be affixed to the employment contract.

NICK BERMAN
Mayor

Attachments:

There are no attachments for this report.

File Reference: F2004/09419-07
Document Number: D01772982

17 RETIREMENT OF MR ROBERT BALL AS COUNCIL'S GENERAL MANAGER

After 47 years in local government, the last 19 years at Hornsby Shire Council, Mr Robert Ball retired on 17 October 2011. At the time of his retirement, Robert was the second longest serving General Manager in NSW.

Robert commenced his career at Rockdale Council on 3 February 1964, working there until May 1966 when he moved to Waverley Council. Robert progressed through the ranks at Waverley until he was appointed to the position of Town Clerk in 1978, a position he held until 16 April 1992. He then commenced as Hornsby Council's Shire Clerk on 21 April 1992, became Council's first General Manager following the implementation of the new Local Government Act in 1993, and remained in that position until his retirement.

During his long and illustrious career in local government, Robert addressed many conferences, studied city management overseas and wrote numerous articles on local government. He was a former President of the Institute of Municipal Management (NSW Division) which is now known as Local Government Managers' Australia. In 2005, Robert was awarded the prestigious Baton Prize for outstanding leadership in local sustainability practice in the General Manager Category.

Robert has served five elected Councils at Hornsby and has had management responsibility for many major initiatives and successful projects including the Statement of Joint Intent, Catchments Remediation, Hornsby Mall, Thornleigh Indoor Sports Centre and Hornsby and Pennant Hills Libraries. He also had a major involvement in Council's recent successful application to the Independent Pricing and Regulatory Tribunal for an infrastructure levy which will assist in achieving Council's financial sustainability into the future.

RECOMMENDATION

THAT Council sincerely thank Mr Robert Ball for his long and distinguished career in local government since 1964 and his outstanding service, dedication and loyalty to the Hornsby community since 1992; and wish Robert and his wife Jill a long and healthy retirement.

NICK BERMAN
Mayor

Attachments:

There are no attachments for this report.

File Reference: F2011/01214
Document Number: D01783182

