



SUPPLEMENTARY BUSINESS PAPER Mayoral Minutes

GENERAL MEETING

**Wednesday, 20 March, 2013
at 6:30 PM**



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**15 HORNSBY AND CENTRAL COAST REGIONAL ADVISORY COUNCIL OF THE
COMMUNITY RELATIONS COMMISSION FOR A MULTICULTURAL NSW**

The Community Relations Commission for a Multicultural NSW (CRC) has established 10 Regional Advisory Council's (RAC's) across the state to:

- provide an important network for rural and regional New South Wales
- create links in rural and regional areas to assist community relations and cultural diversity
- improve communication between the community and government and enable the CRC to work with local agencies and communities
- provide new opportunities for issues to be examined

Membership of a RAC includes both community and government representatives that identify multicultural issues of local concern, discuss them at meetings and ensure that the CRC is aware of these issues.

The chair of the Hornsby and Central Coast RAC, Commissioner Tony Pang has invited Hornsby to nominate a councillor as its representative to the RAC.

RECOMMENDATION

THAT Councillor Singh be appointed as Council's representative to the Hornsby and Central Coast Regional Advisory Council.

STEVE RUSSELL
Mayor

Attachments:

There are no attachments for this report.

File Reference: F2008/00390
Document Number: D02131134

16 LEASES OF COUNCIL PROPERTIES - 1-3 AND 5 JERSEY STREET, HORNSBY; AND 11 CORONATION STREET, HORNSBY

I am excited to submit this Mayoral Minute for Council's consideration as it proposes new leasing arrangements for Council properties at 1-3 and 5 Jersey Street, Hornsby, and 11 Coronation Street, Hornsby, which from my perspective, results in a win-win situation for those involved. The proposal provides Fusion with certainty of occupation of premises in Jersey Street, Hornsby for five years under its current terms and conditions and provides Pro Guitar and Sound with a new opportunity to progress its business after its previous premises were made unusable following a major fire on Hornsby's Westside in December 2012.

At the 20 June 2012 General Meeting, Council considered Executive Manager's Report No. WK17/12 – Expression of Interest to Lease Former "Snap" Building – 11 Coronation Street, Hornsby – and resolved:

THAT Council grant Fusion a five year lease with a five year option as per its expression of interest subject to Fusion:

1. *Obtaining a development approval under the Environmental Planning and Assessment Act 1979.*
2. *Agreeing to meet the full cost associated with making the building fit for purpose.*
3. *Accepting full responsibility for the maintenance and repair costs (excluding the awning) of the building during its occupation and any statutory outgoings in accordance with Council's Code - Lease/Licence of Council Land to Community Groups.*
4. *Agreeing to relocate at a time Council gives notice that it intends to redevelop the site as part of the rejuvenation of Hornsby west side. Such notice shall be no less than 12 months.*

Council's resolution was made on the basis that Fusion was seeking to expand its services by relocating from its existing premises at 1-3 and 5 Jersey Street, Hornsby, to the whole of the former SNAP building at 11 Coronation Street, Hornsby. It is noted that under its current leases at 1-3 and 5 Jersey Street, Fusion pays a rental of \$310 per annum. Since Council's resolution was passed, I am aware that Fusion has been preparing its development application (in line with point 1) and exploring funding opportunities which would assist it in meeting the requirements of points 2 and 3.

In early 2013, I was approached by the owner of Pro Guitar and Sound (Mr Carl Lavery) about Council properties that may be available for lease, as the premises he had previously occupied at 195-197 Pacific Highway, Hornsby, had been damaged by a major fire in late 2012. Mr Lavery indicated that he was particularly interested in Hornsby Westside properties including 11 Coronation Street, Hornsby.

I advised Mr Lavery that Council had resolved in June 2012 to offer Fusion the Council property at 11 Coronation Street, Hornsby, and that I understood that Fusion were expected to submit their development application for the use of the property in the near future. Mr Lavery indicated that he had a genuine interest in the property and would like to undertake an inspection and potentially submit an expression of interest to Council for his proposed use of the property.

On this basis, I advised Mr Lavery that I was prepared to make enquiries of Fusion regarding the progress of their development application and fundraising efforts, as well as their estimated timeline for progression of the building works, to ensure that they were still intending to proceed and that progress would be in a timely manner.

Mr Lavery subsequently submitted a formal Expression of Interest (EOI) to lease the whole building at 11 Coronation Street, Hornsby. As a consequence, I (along with Councillor Hutchence) met with Fusion Australia's Sydney North Centre Manager (Mr Steve Wade) to discuss the current status of Fusion's proposed occupation of 11 Coronation Street, Hornsby, and to seek confirmation that Fusion was in a position to meet the requirements of Council's 20 June 2012 resolution.

Following that meeting, I have received an email from Mr Wade (dated 12 March 2013) advising that he has discussed the situation with his local team as well as Fusion's national board of trustees and:

.....Fusion is convinced that the timeframe for redevelopment of the Westside has most likely changed, and does not want to risk a move that could see us needing to move again within just a few years. Fusion also appreciates the need for good development on the Westside, as being of benefit to the community.....

Fusion is willing for the following scenario to take place, as discussed:

1. *Fusion relinquish its position at 11 Coronation Street, and accept a further 5-year lease at 1-5 Jersey Street under its current level of nominal rent.*
2. *Fusion work cooperatively with Council towards the goal of Fusion moving to non-Council premises in 5 years' time.*
3. *As part of that work, Fusion and Council explore how Fusion might be able to deliver even more services to the Shire in a mutually beneficial way.*
4. *Recognising that Fusion's current premises, due to Fusion's growth in services, pose a number of difficulties, Council be flexible in allowing Owner's Permission for a number of changes to the premises (see notes below).*
5. *Council indicate in writing its agreement to the proposal, for the purpose of:*
 - a) *Minimising Fusion's risk.*
 - b) *Allowing Fusion to indicate to the Community Building Partnership office that it has a further 5 years at its current premises.*
6. *Fusion and Council to discuss an appropriate media release – noting that the Advocate have been contacting Fusion regularly seeking updates on our progress with 11 Coronation Street.*

The EOI received from Mr Lavery proposes the following salient lease terms in respect of Pro Guitar and Sound's use of 11 Coronation Street, Hornsby:

- Gross Rental - \$50,000 per annum (including GST) with an annual CPI rent review. Rent to be payable from the commencement date of the lease which would be immediately upon issue of development consent for the building upgrade works – expected around 1 June 2013.
- Term of Lease – Five years with a 12 month demolition clause after four years. An option of a further five years has also been requested, on the basis that the 12 month demolition clause would apply throughout the further term.
- Rent Free Period – To apply from 1 January 2014 to 30 June 2014 (thus allowing for a “goodwill” payment of rent in 2013 and a better accommodation of the business cash flow).
- Fit out of Premises – to be fully funded by Pro Guitar and Sound – at an estimated cost of \$205,000.
- Conditions – Pro Guitar and Sound to be responsible for all maintenance and fitout (not including the property's external awning).

In considering this matter, I asked the General Manager to obtain comments from the Manager, Land and Property Services about Pro Guitar and Sound's EOI. The Manager, Land and Property Services has provided comments through the General Manager as follows:

Council's Policy - Land – Lease/Licence by Council outlines fundamental principles for which all decisions and actions in relation to the leasing of buildings must have due regard. The primary principle is achieving “best value” which may include financial, social and environmental benefits. Rent will have due regard to market rental levels. The circumstances in certain situations may allow negotiations to proceed without incurring the cost of a market valuation.

It is considered that the lease terms offered in the expression of interest tendered by Pro Guitar and Sound provide Council with the opportunity to achieve “best value” from its property asset on a financial/commercial basis whilst also representing good value for the community on a social and environmental basis – see points below:

1. *Financial – the rental offered reflects the costs required to improve the premises to reasonable standards of compliance with the Building Code of Australia together with the tenants fit out costs over a relatively short term certain of five years. The six month period of rent free is generally in line with industry standards, albeit at the maximum end of the range. Having regard to the existing poor condition of the premises, the lack of on site parking, the poor configuration, the fringe location on the northern edge of the west side town centre, the protracted period of vacancy (approaching three years), the lack of interest to Council's EOI campaign conducted in 2012 and the recently agreed rental for a 2+3 year lease at 5 Coronation Street, the rent offered is considered to be within a reasonable market rental range for the property. The granting of a five year option provides the opportunity to continue to receive reasonable rent, in the event that the property is not ready for redevelopment.*

2. *Social – in addition to their EOI, Pro Guitar and Sound have tendered letters of support from three well known not for profit community organisations. These letters confirm the community focus of Pro Guitar and Sound in providing free facilities and services promoting community engagement, music and the performing arts.*
3. *Environmental – Pro Guitar and Sound have detailed a scope of proposed capital expenditure for Council's building asset that will improve its standard of compliance, present the property better than it is currently presented and improve the overall amenity of the area through business and social activity.*

Having regard to the above information, I believe an opportunity now exists for a win-win outcome in respect of the leases of Council properties at 11 Coronation Street and 1-3 and 5 Jersey Street, Hornsby. That outcome would be that:

- Fusion be allowed to continue its occupation of the properties at 1-3 and 5 Jersey Street, Hornsby, for a further five years under the terms and conditions of its current leases for those properties and points 1 to 6 of Mr Wade's email dated 12 March 2013.
- The General Manager be delegated authority to negotiate the detailed terms of a lease with Pro Guitar and Sound for its use of 11 Coronation Street, Hornsby, generally in accordance with the salient lease terms outlined in this Minute and Pro Guitar and Sound's EOI.

RECOMMENDATION

THAT:

1. Council note:
 - a) the receipt of advice from Fusion Australia that it does not wish to progress with its proposal to lease 11 Coronation Street, Hornsby.
 - b) the receipt of an Expression of Interest from Pro Guitar and Sound for its proposed use of 11 Coronation Street, Hornsby
2. Fusion be allowed to continue its occupation of Council properties at 1-3 and 5 Jersey Street, Hornsby, for a further five years under the terms and conditions of its current leases for those properties and points 1 to 6 of Mr Wade's email dated 12 March 2013.
3. The General Manager be delegated authority to negotiate the detailed terms of a lease with Pro Guitar and Sound for its use of 11 Coronation Street, Hornsby, generally in accordance with the salient lease terms outlined in Mayoral Minute No. MM3/13 and Pro Guitar and Sound's Expression of Interest.
4. Council investigate with Fusion and other not-for-profit community service organisations, opportunities for the most effective provision of community service functions.

STEVE RUSSELL
Mayor

Attachments:

There are no attachments for this report.

File Reference: F2004/09431

Document Number: D02137773

17 BEROWRA AQUATIC CENTRE

I have recently received enquiries from residents in Berowra concerning Council's position on the construction of an aquatic centre at Berowra. In particular residents asked whether construction of the aquatic centre has been abandoned; and if so, how the funds intended for the pool will be distributed.

There have been several proposals over a number of years to build an aquatic centre at Berowra. The proposals initially focused on the provision of a learn-to-swim facility ranging in price from \$1.5M to \$2.0M and progressed to the development of an aquatic centre comprising a learn-to-swim facility and an indoor 25 metre pool with gymnasium estimated at \$12M.

Residents will recall that in 2007 Council sought expressions of interest for a person to build and operate a learn-to-swim facility or to operate a Council built learn-to-swim facility. This was viewed as Stage 1 of a possibly larger facility. Following that process, at its Ordinary Meeting in March 2010, Council resolved (Report No. WK 13/10) not to proceed with the proposed aquatic centre at Berowra as it was demonstrated that such a facility would not be economically viable and Council had identified the emergence of other higher priority projects. In summary, the population of Berowra and surrounding areas to the north (about 11,000 people) was not sufficient in itself to justify such a recreational facility when compared with other more centrally located areas. Since that time a smaller private learn-to-swim facility has been opened in the Mount Kuring-Gai Industrial Estate which caters for Berowra residents.

In respect of the question concerning the funding for an aquatic centre at Berowra, residents will also recall that approximately \$312,000 was originally set aside to partially assist in the possible future development of the centre. After those funds were identified, Council purchased land at 120 Berowra Waters Road, Berowra. The purchase of that land had the purpose of unlocking the development potential in Council's adjoining property at 122 Berowra Waters Road. While Council has since granted consent to a subdivision of this land to enable its sale as five lots (retaining the early Childhood Centre at the front of the site), to date the nature of the local real estate market has been such as to discourage Council from pursuing its sale.

In March 2010, Council also resolved to "*consider future proposals for the use of the funds set aside for the Berowra Aquatic Facility following realisation of the net proceeds of sale of its land at 120 and 122 Berowra Waters Road, Berowra*". As Council has yet to decide to sell that land, no consideration has been given to the use of those funds.

Despite the correspondence received from some residents in Berowra, Council has not changed its position concerning the development of an aquatic centre in that locality. Council is not currently in a financial position to construct such a facility and it has been demonstrated that such a facility would not be financially viable. In short, I believe that it would be irresponsible for Council to contemplate constructing an aquatic centre at Berowra.

The overarching purpose of this Mayoral Minute is to remove any further doubt as to Council's position concerning the project. That is:

1. Council currently does not have any plans to proceed with the construction of an aquatic centre at Berowra.
2. Council will consider future proposals for the use of the funds originally set aside for the aquatic centre at Berowra following the realisation of the net proceeds of sale of its land at 120 and 122 Berowra Waters Road, Berowra (whenever that may occur).

RECOMMENDATION

THAT

1. Council reaffirm its March 2010 position to:
 - a) not proceed with the construction of an aquatic centre at Berowra; and
 - b) consider future proposals for the use of funds originally set aside for the aquatic centre at Berowra following the realisation of the net proceeds of sale of its land at 120 and 122 Berowra Water Road, Berowra, whenever that may occur.
2. Following the sale of the land, identified in Point 1b, priority be given to the funds originally set aside for the aquatic centre at Berowra to be allocated to community and/or recreation projects in A Ward.

STEVE RUSSELL

Mayor

Attachments:

There are no attachments for this report.

File Reference: F2004/08495-02

Document Number: D02140087

18 CONDOLENCE MOTION - MR BRIAN CAREY

It is with great sadness I advise that Mr Brian Carey passed away on Thursday, 28 February 2013.

Mr Carey was a Councillor from September 1987 until September 1991. He represented Council's A Riding (now A Ward) as a member of the Hornsby District Residents and Ratepayers Association, and was also a President of that Association.

Mr Carey was Council's Shire President from September 1989 to September 1990.

Mr Carey was an advocate of a popularly elected President/Mayor (i.e. elected for the full four year term), as he felt that campaigning by Councillors throughout the year undermined the incumbent President/Mayor in annual elections. He was also an advocate for the building of the F3 and for Council operating day care centres.

It is recommended that Council formally express its sincere condolences to the Carey family as part of tonight's Meeting.

RECOMMENDATION

THAT:

1. Council express its sincere condolences to the family of Mr Brian Carey in respect of his recent passing.
2. A message of sympathy be forwarded to Mr Carey's family on behalf of Council.

STEVE RUSSELL
Mayor

Attachments:

There are no attachments for this report.

File Reference: F2004/05878
Document Number: D02140152