



BUSINESS PAPER

EXTRAORDINARY MEETING

**Wednesday 22 November 2017
at 6:30pm**



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GENERAL BUSINESS

Office of the General Manager

Nil

Corporate Support Division

Nil

Environment and Human Services Division

Nil

Planning Division

Nil

Infrastructure and Recreation Division

Nil

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AGENDA AND SUMMARY OF RECOMMENDATIONS

PRESENT

NATIONAL ANTHEM

OPENING PRAYER/S

ACKNOWLEDGEMENT OF RELIGIOUS DIVERSITY

Statement by the Chairperson:

"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 Chairperson:

"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 Chairperson:

"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 of the non-confidential parts of the meeting 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. No other persons are permitted to record the Meeting, unless specifically authorised by Council to do so."

APOLOGIES / LEAVE OF ABSENCE

POLITICAL DONATIONS DISCLOSURE

Statement by the Chairperson:

"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."

DECLARATIONS OF INTEREST

Clause 52 of Council's Code of Meeting Practice (Section 451 of the Local Government Act, 1993) requires that a councillor or a member of a Council committee who has a pecuniary interest in a matter which is before the Council or committee and who is present at a meeting of the Council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. The disclosure is also to be submitted in writing (on the form titled "Declaration of Interest").

The Councillor or member of a Council committee must not be present at, or in sight of, the meeting of the Council or committee:

- (a) at any time during which the matter is being considered or discussed by the Council or committee.*
- (b) at any time during which the Council or committee is voting on any question in relation to the matter.*

Clause 51A of Council's Code of Meeting Practice provides that a Councillor, Council officer, or a member of a Council committee who has a non pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. The disclosure is also to be submitted in writing (on the form titled "Declaration of Interest").

If the non-pecuniary interest is significant, the Councillor must:

- a) remove the source of conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another Council official.*

OR

- b) have no involvement in the matter by absenting themselves from and not taking part in any debate or voting on the issue as if the provisions of Section 451(2) of the Act apply.*

If the non-pecuniary interest is less than significant, the Councillor must provide an explanation of why they consider that the interest does not require further action in the circumstances.

CONFIRMATION OF MINUTES

PETITIONS

PRESENTATIONS

RESCISSION MOTIONS**MAYORAL MINUTES****Page Number 1****Item 1 MM19/17 INDEPENDENT HEARING AND ASSESSMENT PANELS****RECOMMENDATION**

THE MAYOR TO MOVE THAT:

1. Council write to the Hon. Anthony Roberts, Minister for Planning seeking an urgent meeting to:
 - 1.1 Discuss concerns that the establishment of a mandatory IHAP for Hornsby Shire would take the responsibility for decision making out of the hands of Councillors who have been elected to represent the views of the local community.
 - 1.2 Suggest that where panels are established, this should be at the discretion of the council with their structure determined in response to the unique characteristics of the local government area and the expectations of the local community.
2. Council write to local State and Federal members advising them of Council's resolution and seeking their support and assistance in the implementation of the above action and facilitating discussions with the State Government.

ITEMS PASSED BY EXCEPTION / CALL FOR SPEAKERS ON AGENDA ITEMSNote:

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

*Persons wishing to address Council on **non agenda matters**, are permitted to speak after all items on the agenda in respect of which there is a speaker from the public have been finalised by Council. Their names will be recorded in the Minutes under the heading "Public Forum for Non Agenda Items".*

GENERAL BUSINESS

- *Items for which there is a Public Forum Speaker*
- *Public Forum for non agenda items*
- *Balance of General Business items*

OFFICE OF THE GENERAL MANAGER

Nil

CORPORATE SUPPORT DIVISION

Nil

ENVIRONMENT AND HUMAN SERVICES DIVISION

Nil

PLANNING DIVISION

Nil

INFRASTRUCTURE AND RECREATION DIVISION

Nil

CONFIDENTIAL ITEMS

Item 2 GM3/17 LEGAL PROCEEDINGS UPDATE

This report should be 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.

PUBLIC FORUM – NON AGENDA ITEMS

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1 INDEPENDENT HEARING AND ASSESSMENT PANELS

As Councillors are aware, the NSW State Government recently introduced legislation to require the establishment of Independent Hearing Assessment Panels (IHAPs) to determine development applications of high value, corruption risk, sensitivity or strategic importance. These panels must be in place by 1 March 2018, after which the elected Council will have no further role in the determination of development applications.

At its meeting on 11 October 2017, Council considered a report outlining the amendments to planning legislation to mandate the establishment of IHAPs and identifying their implications for Hornsby Shire. Council resolved (in part) to make a submission to the Department Planning and Environment requesting a number of matters be addressed in finalising the arrangements for the commencement of the panels including additional community representation, cost recovery for the operational of the panel and opportunity to refer matters of public interest to the panel. However, given the imminent introduction of the panels, Council also resolved to commence the process of filling the community representative positions on the panel so we are well placed to ensure local interests are represented on the panel from its commencement.

Recently, I attended a number of meetings where issues associated with the introduction of IHAPs have been discussed including a meeting convened with our neighbours, The Hills Shire Council and a Northern Sydney Regional Organisation of Councils meeting. The discussion at these meetings has highlighted a number of concerns about the mandatory nature of the panels, their cost implications and lack of community transparency.

Hornsby Council has a proven track record of assessing development applications in an efficient and open manner which encourages community participation in the decision making process. Mandating IHAPs will not only create additional bureaucracy but will also cost in excess of \$100,000 per year to operate without a demonstrable public benefit. This cost cannot be recovered from development application fees placing a further financial burden on local government.

The chair of the panel will be appointed by the Planning Minister. The expert members will be chosen by councils, from a pool of experts pre-approved by the Minister. By their composition, panels will be dominated by State Government selected members who will not be held accountable by the community. At election time, the community holds elected officials to account for the planning decisions they make. It is appropriate that councillors continue this role to ensure accountability and transparency in planning decisions. Where panels are adopted, this should be at the discretion of the council with their structure determined in response to the unique characteristics of the local government area and the expectations of the local community.

Accordingly, an urgent meeting should be sought with the Minister for Planning and Environment to discuss concerns that the establishment of an IHAP for Hornsby Shire would take the responsibility for decision making out of the hands of Councillors who have been elected to represent the views of the local community.

RECOMMENDATION

THE MAYOR TO MOVE THAT:

1. Council write to the Hon. Anthony Roberts, Minister for Planning seeking an urgent meeting to:
 - 1.1 Discuss concerns that the establishment of a mandatory IHAP for Hornsby Shire would take the responsibility for decision making out of the hands of Councillors who have been elected to represent the views of the local community.
 - 1.2 Suggest that where panels are established, this should be at the discretion of the council with their structure determined in response to the unique characteristics of the local government area and the expectations of the local community.
2. Council write to local State and Federal members advising them of Council's resolution and seeking their support and assistance in the implementation of the above action and facilitating discussions with the State Government.

The Honourable Cr PHILIP RUDDOCK

Mayor

Attachments:

There are no attachments for this report.

File Reference: F2013/00295

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