



# **BUSINESS PAPER**

## **GENERAL MEETING**

**Wednesday 12 December 2018  
at 6:30PM**



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## **AGENDA AND SUMMARY OF RECOMMENDATIONS**

### **PRESENT**

### **NATIONAL ANTHEM**

### **OPENING PRAYER/S**

Reverend James McFarlane of Hornsby Presbyterian Church, Hornsby will open tonight's meeting in prayer.

### **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."*

### **VIDEO AND AUDIO RECORDING OF COUNCIL MEETING**

Statement by the Chairperson:

*"I advise all present that tonight's meeting is being video streamed live via Council's website and also 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 audio and video 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**

THAT the Minutes of the General Meeting held on 14 November, 2018 be confirmed; a copy having been distributed to all Councillors.

#### **PETITIONS**

#### **PRESENTATIONS**

#### **RESCISSION MOTIONS**

#### **MAYORAL MINUTES**

#### **ITEMS PASSED BY EXCEPTION / CALL FOR SPEAKERS ON AGENDA ITEMS**

Note:

*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**

##### **Page Number 1**

**Item 1 GM4/18 CODE OF CONDUCT COMPLAINTS - ANNUAL REPORT**

#### **RECOMMENDATION**

THAT the contents of General Manager's Report No. GM4/18 be received and noted.

#### **CORPORATE SUPPORT DIVISION**

##### **Page Number 4**

**Item 2 CS52/18 INVESTMENTS AND BORROWINGS FOR 2018/19 - STATUS FOR PERIOD ENDING 31 OCTOBER 2018**

**RECOMMENDATION**

THAT the contents of Deputy General Manager's Report No. CS52/18 be received and noted.

**ENVIRONMENT AND HUMAN SERVICES DIVISION****Page Number 7****Item 3      EH23/18 TEMPORARY SUSPENSION OF ALCOHOL FREE ZONE IN HORNSBY MALL****RECOMMENDATION**

THAT Council:

1. Temporarily suspend the alcohol-free zone in Hornsby Mall from 5.30pm to 8.30pm on 2, 9, 16 and 23 February 2019 to accommodate a licensed bar as part of the Sunset Sessions events pursuant to the *Ministerial Guidelines on Alcohol-Free Zones*.
2. Publish notice of a suspension and temporarily remove signage as required under section 645 (1) and (3) of the *Ministerial Guidelines on Alcohol-Free Zones*.

**PLANNING DIVISION****Page Number 11****Item 4      PL33/18 REPORTING VARIATIONS TO DEVELOPMENT STANDARDS****RECOMMENDATION**

THAT the contents of Group Manager's Report No. PL33/18 be received and noted.

**Page Number 14****Item 5      PL23/18 COMMUNITY CONSULTATION RESULTS - COLOURS OF COMMERCIAL BUILDINGS****RECOMMENDATION**

THAT:

1. Council write to the Minister for Planning requesting an amendment to the exemption circumstances for painting under the 'minor building alterations (external)' category of development in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* to exclude bright or fluorescent colours from the exemption circumstances for painting of a building.
2. The Summary of Responses report attached to Group Manager's Report No. PL23/18 be placed on Council's website.

3. Survey respondents and email submitters be advised of Council's resolution.
4. Letters be sent to local State Members seeking their support.

## **INFRASTRUCTURE AND RECREATION DIVISION**

### **Page Number 18**

#### **Item 6 IR12/18 HORNSBY QUARRY REHABILITATION DEVELOPMENT APPLICATION**

### **RECOMMENDATION**

THAT Council note:

1. The content of Deputy General Manager's Report No. IR12/18 relating to preparation and lodgement of the Development Application and supporting Environmental Impact Statement for a range of works including extraction and placement of additional spoil material won from within the lands surrounding Hornsby Quarry to create a final landform generally in accordance with Option 1 in the Clouston Associates (2014) Recreation Potential Study for Hornsby Quarry and Old Mans Valley Lands (p.88).
2. That the proposed landform will allow for a range of recreation pursuits identified through community engagements undertaken in 2017.
3. That further community engagement will be undertaken prior to confirming the scope of park embellishments to be approved via a separate approval process.

## **PUBLIC FORUM – NON AGENDA ITEMS**

### **QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN**

### **MAYOR'S NOTES**

#### **Page Number 24**

#### **Item 7 MN14/18 MAYORS NOTES FROM 1 TO 30 NOVEMBER 2018**

### **NOTICES OF MOTION**

#### **Page Number 26**

#### **Item 8 NOM36/18 FOOTPATH LINK AND NEARBY CAR PARKING - BEROWRA RSL**

### **COUNCILLOR TILBURY TO MOVE**

THAT:

1. As part of Council's planning to provide a missing footpath link beside the Berowra RSL, investigations be undertaken in conjunction with representatives of the RSL to do some basic



work to improve the car parking area currently leased by the RSL for its patrons but almost solely used during the week by Berowra commuters.

2. Council undertake further discussion with the owner/lessee of the carpark regarding permanent public access to the carpark.
3. An amount of up to \$10,000 be allocated to allow the investigations and works to be undertaken.

## Page Number 27

### Item 9 NOM37/18 LOBBYING OF MAYOR AND COUNCILLORS - PLANNING PROPOSALS

#### COUNCILLOR HEYDE TO MOVE

THAT Council:

1. Note that the ICAC has published best-practice guidelines to guide councillors, proponents of development and lobbyists in relation to land use planning and development assessment.
2. Adopt the following additional clauses in the Code of Conduct (as an addendum to the Development Decisions section in Part 3 of the Code) to increase transparency:
  - 3(vii) *That in respect of Planning Proposals (including foreshadowed and formally lodged), the Mayor and Councillors must:*
    - (a) *Keep a written record of meetings and other communications with developers, proponents and lobbyists (hereafter referred to as "applicants")*
    - (b) *Request applicants, who have approached you for a meeting, to formally write to Council to request a meeting with all Councillors and relevant council officers and to submit their arguments/proposals in writing prior to the meeting.*
    - (c) *Conduct meetings with applicants in official locations, such as Council premises, and have a senior council officer present at all times.*
    - (d) *Provide copies of information presented by an applicant during a meeting to Council officers for consideration and assessment (if required), distribution to other Councillors and filing in Council's records management system.*
    - (e) *Make a declaration at a Council meeting, during consideration of any relevant planning matter, about the lobbying activities of applicants which were not part of Council's formal engagement/consultation processes.*
3. Create a public register of meetings with applicants for Planning Proposals (foreshadowed and formally lodged) to provide transparency for the people of Hornsby Shire. The register would include meetings between applicants and the Mayor and Councillors, and the applicants be advised that the meeting details will be included in such register.

## Page Number 29

**Item 10 NOM35/18 FAMILY AND DOMESTIC VIOLENCE**

COUNCILLOR NICITA TO MOVE

THAT Council:

1. Recognise the unbelievable damage that family and domestic violence can have on a person's life, work and community, and that the consequences can often be felt in the workplace.
2. Note the invaluable work of the Hornsby Ku-ring-gai Women's Shelter and other similar organisations and community groups in dealing with the impacts of domestic violence in the Hornsby Shire.
3. Resolve to provide ten additional days of paid leave each year to staff of Council who are dealing with the consequences of family and domestic violence.

**Page Number 33****Item 11 NOM34/18 PAID DOMESTIC AND FAMILY VIOLENCE LEAVE**

COUNCILLOR MCINTOSH TO MOVE

THAT:

1. In principle, Council supports the idea of providing 10 days paid Domestic and Family Violence Leave to all Council staff.
2. A briefing and/or report be prepared outlining the options for providing this Leave and examining other options for providing information to all staff and options for support.

**Page Number 35****Item 12 NOM38/18 HERITAGE SIGNIFICANCE OF TREES IN MANOR ROAD, HORNSBY**

COUNCILLOR HEYDE TO MOVE

THAT Council make an Interim Heritage Order under Section 25 of the NSW Heritage Act 1977, for the properties shown in Attachment 1 to this Notice of Motion, to enable full and proper evaluation of the heritage significance of the trees in private gardens adjoining the road reserve to determine which trees should form part of the Manor Road listing.

**SUPPLEMENTARY AGENDA****MATTERS OF URGENCY****QUESTIONS WITHOUT NOTICE**

**1 CODE OF CONDUCT COMPLAINTS - ANNUAL REPORT**

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**EXECUTIVE SUMMARY**

- Clause 12.1 of Council's Procedures for the Administration of the Code of Conduct requires the Complaints Coordinator to report annually to Council on Code of Conduct complaints made about Councillors and/or the General Manager.
- A total of five (5) Code of Conduct complaints were received about Councillors and/or the Acting General Managers/General Manager in the year to September 2018.
- None of the Code of Conduct complaints progressed beyond initial review.

**RECOMMENDATION**

THAT the contents of General Manager's Report No. GM4/18 be received and noted.

## PURPOSE

The purpose of this Report is to meet the requirements of Council's Procedures for the Administration of the Code of Conduct (Procedures) in respect of the receipt of Code of Conduct complaints during the period 30 September 2017 to 30 September 2018.

## BACKGROUND

Clause 12.1 of Council's Procedures for the Administration of the Code of Conduct states:

*The Complaints Coordinator must arrange for the following statistics to be reported to the Council within 3 months of the end of September of each year:*

- a) *The total number of code of conduct complaints made about Councillors and the General Manager under the code of conduct in the year to September,*
- b) *The number of code of conduct complaints referred to a conduct reviewer,*
- c) *The number of code of conduct complaints finalised by a conduct reviewer at the preliminary assessment stage and the outcome of those complaints,*
- d) *The number of code of conduct complaints investigated by a conduct reviewer,*
- e) *The number of code of conduct complaints investigated by a conduct review committee,*
- f) *Without identifying particular matters, the outcome of code of conduct complaints investigated by a conduct reviewer or conduct review committee under these procedures,*
- g) *The number of matters reviewed by the Office of Local Government (OLG) and, without identifying particular matters, the outcome of the reviews, and*
- h) *The total cost of dealing with code of conduct complaints made about Councillors and the General Manager in the year to September, including staff costs.*

## DISCUSSION

There were five (5) Code of Conduct complaints made against Councillors and/or the Acting General Managers/General Manager in the period from 30 September 2017 to 30 September 2018. Statistics in relation to these matters, as required by the Office of Local Government, are shown in the summary table below:

Total number of code of conduct complaints <b>received</b> in the period	5
Number of complaints <b>finalised at the outset</b> by alternative means by the Acting General Managers/General Manager or Mayor in accordance with clause 5.18 of the Procedures	1
Number of complaints <b>referred to a conduct reviewer</b>	4
Number of complaints <b>withdrawn</b> by complainant after referral to a conduct reviewer	1
Number of finalised complaints referred to a conduct reviewer where there was found to be <b>no breach</b>	3
Number of complaints finalised at preliminary assessment stage by a conduct reviewer by <b>taking no action</b>	2

Number of complaints resulting in a determination by the conduct reviewer that there was <b>no breach</b> , in which it was recommended that a person or person/s undertake training or other education	1
Total cost of dealing with code of conduct complaints made about Councillors and the Acting General Managers/General Manager in the year to September, including staff costs	\$7,986.25

**ITEM 1**

Whilst a total of five matters were raised as Code of Conduct complaints, none progressed beyond initial review.

**BUDGET**

There are no budgetary implications associated with this Report.

**POLICY**

There are no policy implications associated with this Report.

**CONCLUSION**

Council's consideration of this Report ensures the requirements of Council's Procedures for the Administration of the Code of Conduct are met. As specific details of the Code of Conduct complaints are not reportable, the only action required is for Council to receive and note this Report.

**RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Risk and Audit Manager (and Council's Complaints Coordinator) – Scott Allen, who can be contacted on 9847 6609.

STEVEN HEAD

General Manager

Office of the General Manager

**Attachments:**

There are no attachments for this report.

File Reference: F2006/00554

Document Number: D07496781

**2 INVESTMENTS AND BORROWINGS FOR 2018/19 - STATUS FOR PERIOD ENDING 31 OCTOBER 2018**

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**EXECUTIVE SUMMARY**

- This Report provides details of Council's investment performance for the period ending 31 October 2018 as well as the extent of its borrowings at the end of the same period.
- Council invests funds that are not, for the time being, required for any other purpose. The investments must be in accordance with relevant legislative requirements and Council's policies and the Chief Financial Officer must report monthly to Council on the details of funds invested.
- All of Council's investments have been made in accordance with the Local Government Act, the Local Government (General) Regulation and Council's Investment of Surplus Funds Policy and Investment Strategy.
- In respect of Council's cash and term deposit investments, the annualised return for the month of October 2018 was 1.82% and year to date 2.40%.

**RECOMMENDATION**

THAT the contents of Deputy General Manager's Report No. CS52/18 be received and noted.

**PURPOSE**

The purpose of this Report is to advise Council of funds invested in accordance with Section 625 of the Local Government Act; to provide details as required by Clause 212(1) of the Local Government (General) Regulation and Council's Investment of Surplus Funds Policy; and to advise on the extent of Council's current borrowings.

**BACKGROUND**

A report is required to be submitted for Council's consideration each month detailing Council's investments and borrowings and highlighting the monthly and year to date performance of the investments. Initial investments and reallocation of funds are made, where appropriate, after consultation with Council's financial investment adviser and fund managers.

**DISCUSSION**

Council invests funds which are not, for the time being, required for any other purpose. Such investment must be in accordance with relevant legislative requirements and Council Policies, and the Chief Financial Officer must report monthly to Council on the details of the funds invested. Council's investment performance for the month ending 31 October 2018 is detailed in the attached document. In summary, the portfolio achieved an annualised return of 1.82% for October 2018 and year to date 2.4%.

NSW T-Corp Medium Term Growth Fund has a 25% allocation to growth assets which often results in short term volatility over an investment horizon of seven years. During the month of October, the decline in the share market and global economic uncertainty saw the Fund record a negative 1.4% return. While some of the decline has been reversed in early November, it is worth noting that this investment has a longer term view of seven years and will experience monthly volatility.

In respect of Council borrowings, the weighted average interest rate payable on outstanding loans taken out from June 2008 to date, based on the principal balances outstanding is 6.83%. The Borrowings Schedule as at 31 October 2018 is also attached for Council's information.

**BUDGET**

Budgeted investment income for 2018/19 is \$3,679,500 with an average budgeted monthly income of \$306,625. Total investment income for the month ended 31 October 2018 was \$2,288,425. Approximately 28% of the investment income received by Council relates to externally restricted funds (e.g. Section 711 development contribution funds) and is required to be allocated to those funds. All investments have been made in accordance with the Local Government Act, the Local Government (General) Regulation and Council's Investment of Surplus Funds Policy and Investment Strategy.

**CONSULTATION**

Appropriate consultation has occurred with Council's investment advisor in the preparation of this Report.

**CONCLUSION**

The investment of Council funds and the extent of its borrowings as at 31 October 2018 are detailed in the documents attached to this Report. Council's consideration of the Report and its attachments ensures that the relevant legislative requirements and Council protocols have been met in respect of those investments and borrowings.

**RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Chief Financial Officer - Glen Magus - who can be contacted on 9847 6835.

GLEN MAGUS  
Chief Financial Officer - Financial Services  
Corporate Support Division

GARY BENSLEY  
Deputy General Manager - Corporate Support  
Corporate Support Division

**Attachments:**

- 1. [⇒](#) HSC Investment Summary Report October 2018
- 2. [⇒](#) HSC Borrowings Schedule 31 October 2018

File Reference: F2004/06987-02  
Document Number: D07556549



### 3 TEMPORARY SUSPENSION OF ALCOHOL FREE ZONE IN HORNSBY MALL

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#### EXECUTIVE SUMMARY

- Hornsby Mall has been designated by Council as an alcohol-free zone.
- Since 2016, Council has been presenting the annual Sunset Sessions series of events in Hornsby Mall on four consecutive Friday evenings in February. As these events include a licensed bar, temporary suspension of the abovementioned alcohol-free zone in Hornsby Mall is required during the event.
- Under the *Ministerial Guidelines on Alcohol-Free Zones*, a local government may temporarily suspend an alcohol-free zone by council resolution, subject to liaison with the local police.
- Council officers have consulted with local police who have indicated that they are not opposed to the temporary suspension, provided the area is secured and monitored to the same standard that it has been during previous editions of the Sunset Sessions events.
- This report recommends that Council temporarily suspend the Alcohol-Free Zone in Hornsby Mall for the purposes of hosting the Sunset Sessions in February 2019.

#### RECOMMENDATION

THAT Council:

1. Temporarily suspend the alcohol-free zone in Hornsby Mall from 5.30pm to 8.30pm on 1, 8, 15 and 22 February 2019 to accommodate a licensed bar as part of the Sunset Sessions events pursuant to the *Ministerial Guidelines on Alcohol-Free Zones*.
2. Publish notice of a suspension and temporarily remove signage as required under section 645 (1) and (3) of the *Ministerial Guidelines on Alcohol-Free Zones*.

## PURPOSE

The purpose of this Report is to seek Council's support to temporarily suspend the operation of the alcohol-free zone in Hornsby Mall for the Sunset Sessions events held between 5.30pm and 8.30pm on 1, 8, 15 and 22 February 2019.

## BACKGROUND

Over a period of years and with the support of local police, Council has maintained an alcohol-free zone throughout the Hornsby Town Centre (including Hornsby Mall) to assist with the management of anti-social behaviour and provide a degree of comfort to the users of the space.

Since 2016, Council has been presenting the annual Sunset Sessions series of events in Hornsby Mall on four consecutive Friday evenings in February. As these events include a licensed bar, suspension of the abovementioned alcohol-free zone in Hornsby Mall is required for their duration.

Under the *Ministerial Guidelines on Alcohol-Free Zones*, a local government may temporarily suspend an alcohol-free zone by council resolution, subject to liaison with the local police. The Guidelines outline the following:

### **SUSPENSION OR CANCELLATION OF AN ALCOHOL-FREE ZONE**

#### **Section 645**

*The power to suspend or cancel an alcohol-free zone during its period of operation is provided so that a council may respond to more immediate situations that arise within the area of the zone.*

*A council must pass a valid resolution to suspend or cancel a particular alcohol-free zone. Such action may be taken as a result of a request received from any person or body, or at a council's own initiative.*

*Liaison with the local police, before and after the council resolution, is essential to ensure that both groups are informed and action is coordinated. Additionally, a council may undertake any other consultation that it considers necessary.*

*A council must publish notice of a suspension or cancellation as required under section 645 (1) and (3). In the case of cancellation of an alcohol-free zone the signs should be removed immediately.*

*A council is not limited in the reasons for which it may suspend or cancel an alcohol-free zone. A suspension would not usually be appropriate for any period longer than one month, and generally would be of a much shorter duration eg. to accommodate a specific community event. Alcohol-free zone signage should be removed for the duration of any suspension of the zone.*

*The four year operation of an alcohol-free zone is not extended by any suspension occurring within that period.*

## DISCUSSION

Sunset Sessions is a popular series of community events, attracting thousands of residents and contributing positively to their quality of life and satisfaction with Council. Central to its success since 2016 has been its unique blend of live music, food and controlled alcohol service in a licenced and secured area of Hornsby Mall. Feedback on the series from residents and stakeholders, including the

Hornsby Police Station's nominated representative, has been positive; and no alcohol-related incidents have occurred since the inception of the event.

As discussed in the previous section, the Hornsby Mall has been established by Council as an alcohol-free zone; and under the *Ministerial Guidelines on Alcohol-Free Zones*, Council may temporarily suspend this zoning by resolution subject to liaison with the local police.

#### **CONSULTATION**

In the preparation of this Report there was consultation the Hornsby Police Station's nominated representative, who indicated that they are not opposed to the suspension of the alcohol-free zone as detailed herein. This support was provided subject to the area being secured and monitored to the same standard as it has been during previous editions of the Sunset Sessions events.

#### **BUDGET**

There are no budgetary implications associated with this Report.

#### **POLICY**

There are no policy implications associated with this Report. Recommendations contained in the report are consistent with Ministerial Guidelines on the Suspension of Alcohol Free Zones.

#### **CONCLUSION**

The Hornsby Mall has been established by Council as an alcohol-free zone; and under the *Ministerial Guidelines on Alcohol-Free Zones*, Council may temporarily suspend this designation by resolution subject to liaison with the local police.

Feedback on the Sunset Sessions series of events from residents and stakeholders, including a representative of the Hornsby Police Station, has been positive; and no alcohol-related incidents have historically occurred at the event.

Given Sunset Sessions' popularity, and that the Hornsby Police Station's nominated representative is not opposed to this proposal, it is recommended that Council proceed with this temporary suspension.

#### **RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Manager Library and Community – Cheryl Etheridge - who can be contacted on 9847 6801.

CHERYL ETHERIDGE  
Manager - Library and Information Services  
Environment and Human Services Division

STEPHEN FEDOROW  
Group Manager  
Environment and Human Services Division

#### **Attachments:**

There are no attachments for this report.

File Reference: F2014/00221-05

Document Number: D07568582

**ITEM 3**

#### 4 REPORTING VARIATIONS TO DEVELOPMENT STANDARDS

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##### EXECUTIVE SUMMARY

- In accordance with Department of Planning and Environment's *Planning Circular PS 08-14*, Council is required to report variations to development standards for development applications approved under delegated authority, which relied upon *State Environmental Planning Policy No. 1 – Development Standards (SEPP 1)* or Clause 4.6 of the *Hornsby Local Environmental Plan - 2013 (HLEP)*.
- Council's consideration of this report ensures Council's obligation to monitor variations to development standards is complied with.

##### RECOMMENDATION

THAT the contents of Group Manager's Report No. PL33/18 be received and noted.

## PURPOSE

The purpose of this report is to advise Council of determined development applications under delegated authority involving a *SEPP 1* or *Clause 4.6* variation to a development standard for the period 1 July 2018 to 30 September 2018.

## DISCUSSION

Department of Planning and Environment's *Circular B1*, issued in March 1989, requested that councils monitor the use of the Secretary's assumed concurrence under *SEPP 1* on a quarterly basis. This reporting requirement remains effective.

Monitoring of variations to development standards is important to provide the Department and councils with an overview of the manner in which established development standards are being varied and whether the assumed concurrence is being used as intended. This enables Council and the Department to determine whether development standards are appropriate, or whether changes are required.

The Department issued *Circular PS 08-014* on 14 November 2008. The purpose of the Circular was to remind councils of their responsibilities to monitor the use of the Secretary's assumed concurrence under *SEPP 1*. Councils were reminded of the need to keep accurate records of the use of *SEPP 1* and to report on a quarterly basis.

The *Circular* also provides that councils are required to adopt the following four measures:

1. Establish a register of development applications determined with variations in standards under *SEPP 1*.
2. Require all development applications where there has been a variation greater than 10% in standards under *SEPP 1* to be determined by full council (rather than General Manager or nominated staff member).
3. Provide a report to Council on the development applications determined where there had been a variation in standards under *SEPP 1*.
4. Make the register of development applications determined with variations in standards under *SEPP 1* available to the public on the council's website.

In accordance with Point 3 of Department Circular, attached is a list of development applications determined between 1 July 2018 to 30 September 2018.

A copy of the attachment to this report is also reproduced on Council's website.

## BUDGET

There are no budget implications.

## POLICY

This report addresses Council's reporting obligations for development applications determined where there has been a variation in standards under *SEPP 1*. Under the HLEP 2013, the application of the provisions of *SEPP 1* has been replaced by *Clause 4.6* (exceptions to development standards). The Department of Planning and Environment has advised that the current reporting practice for variation to development standards continues to apply for applications involving a submission pursuant to *Clause 4.6* of the HLEP 2013.

## CONCLUSION

Council is required to monitor the manner in which development standards are being varied. This assists in determining whether changes are required to relevant standards. This report provides advice to Council on standards varied under delegated authority which relied upon SEPP 1 or Clause 4.6 of the HLEP during the reporting period from 1 July 2018 to 30 September 2018.

**RESPONSIBLE OFFICER**

The officer responsible for the preparation of this report is the Group Manager Planning Division – James Farrington, who can be contacted on 9847 6750.

JAMES FARRINGTON  
Group Manager Planning  
Planning Division

**Attachments:**

1. [↔](#) Clause 4.6 Returns Quarter - 1 July 2018 to 30 September 2018

File Reference: F2004/07599-02  
Document Number: D07547809

## 5 COMMUNITY CONSULTATION RESULTS - COLOURS OF COMMERCIAL BUILDINGS

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### EXECUTIVE SUMMARY

- At its meeting on 14 March 2018, Council resolved to seek the views of the community on the colours of commercial buildings and whether colour restrictions should be imposed. Accordingly, a survey was launched in August 2018.
- Council received 294 completed responses to the survey. In summary, 138 respondents (46.9%) answered 'yes' that Council should develop a list of colours for commercial buildings, 139 respondents (47.3%) answered 'no' and 17 people (5.8%) were unsure.
- Based on the results of the survey and discussion at an informal Councillor workshop on 7 November 2019, it is recommended that Council write to the Minister for Planning seeking an amendment to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* to exclude bright or fluorescent colours from the exemption circumstances for painting a building.

### RECOMMENDATION

THAT:

1. Council write to the Minister for Planning requesting an amendment to the exemption circumstances for painting under the 'minor building alterations (external)' category of development in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* to exclude bright or fluorescent colours from the exemption circumstances for painting of a building.
2. The Summary of Responses report attached to Group Manager's Report No. PL23/18 be placed on Council's website.
3. Survey respondents and email submitters be advised of Council's resolution.
4. Letters be sent to local State Members seeking their support.



## PURPOSE

The purpose of this report is to present the results of community consultation on colours of commercial buildings.

## BACKGROUND

At its meeting on 14 February 2018, Council considered Mayoral Minute No. MM2/18 – Signage, Advertising and Corporate Colour Schemes and resolved that:

1. *Council write to the Hon Anthony Roberts, Minister for Planning, seeking amendment to the exemption circumstances for painting under the “minor non-structural building alterations” category of development in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 to painting of a building where it is consistent with an endorsed colour palette for the area in which the building is located, if an endorsed palette exists.*
2. *Should amendment be made to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, a report be prepared for Council’s consideration seeking endorsement for amendment to the Hornsby Development Control Plan 2013 to include colour palettes for the Shire’s commercial centres.*

At its meeting on 14 March 2018, Council rescinded its resolution on 14 February 2018 and resolved that consideration of Mayoral Minute MM2/18 – Signage, Advertising and Corporate Colour Schemes be deferred until there has been the opportunity to consult with the community.

## DISCUSSION

In accordance with Council’s resolution, the community was surveyed about its views on colours of commercial buildings. This report discusses the findings of the survey and presents options for next steps.

### Survey

A survey was developed in response to Council’s resolution on 14 March 2018 to consult with the community. The survey questions and promotion methods were discussed and refined with Councillor input at an informal workshop on 27 June 2018.

The survey was launched on 1 August 2018 and closed on 21 August 2018. Distribution methods included the following:

- Newspaper advertisement;
- Council’s website “Your Say” news item;
- ENews item;
- Council’s Facebook page;
- Targets emails to community groups; and
- Targeted letters to business owners in commercial areas.

### Responses

Council received 294 completed responses to the survey. Of the 294 respondents, 70% were residents, 25% were business owners and 5% were people from outside Hornsby LGA.

In summary, 138 respondents (46.9%) answered ‘yes’ that Council should develop a list of colours for commercial buildings, 139 respondents (47.3%) answered ‘no’ and 17 people (5.8%) were unsure.

When separating results in to views of residents and views of business owners, 57% of residents agreed that Council should develop and prescribe a list of colours and 15% of business owners agreed that Council should develop and prescribe a list of colours.

There was a varied mix of comments in the free text parts of the survey, along with four email submissions separate to the survey and comments on Council's Facebook post. A Summary of Responses report (attached) contains both a statistical breakdown of responses from the survey along with a summary of the comments received within the survey and through emails and Facebook.

#### **NEXT STEPS**

The survey results were discussed at an informal Councillor workshop on 7 November 2018. At the workshop there was general agreement from Councillors that an amendment to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* be sought to exclude bright or fluorescent colours from the exemption circumstances for painting a building. This would mean that a Development Application would be required should a business owner wish to paint their building in bright or fluorescent colours.

Subsequent to the informal Councillor workshop, on 20 November 2018 the Mayor met with the Minister for Planning to discuss a number of planning matters of concern, including colours of commercial buildings. It is understood that the Minister indicated his willingness to consider a submission from Council on the issue.

#### **BUDGET**

There are no budgetary implications associated with this Report.

#### **CONCLUSION**

Council received a total of 294 completed responses to the survey on Colours of Commercial buildings. The Summary of Responses attached to this report outlines a statistical breakdown of responses from the survey along with a summary of the comments received within the survey and through emails and Facebook.

Based on the results of the survey and discussion at an informal Councillor workshop on 7 November 2019, it is recommended that Council write to the Minister for Planning seeking an amendment to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* to exclude bright or fluorescent colours from the exemption circumstances for painting a building.

#### **RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Manager, Strategic Planning – Katherine Vickery, who can be contacted on 9847 6744.

KATHERINE VICKERY  
Manager - Strategic Planning  
Planning Division

JAMES FARRINGTON  
Group Manager Planning  
Planning Division

**Attachments:**

1. [⇒](#) Summary of Responses

File Reference: F2018/00211

Document Number: D07501685

**ITEM 5**

## **6 HORNSBY QUARRY REHABILITATION DEVELOPMENT APPLICATION**

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### **EXECUTIVE SUMMARY**

- Council will shortly finalise and lodge a Development Application (DA) and supporting Environmental Impact Statement (EIS) for rehabilitation, stabilisation and geotechnical safety management works around various parts of Hornsby Quarry. The DA and EIS also propose earthworks and placement of material won from within the site to create a final landform to support a range of recreation pursuits.
- Up to 500,000m<sup>3</sup> of spoil is expected to be generated onsite from earthworks on lands surrounding Hornsby Quarry. Much of the material would be placed on the NorthConnex spoil that has been placed in the quarry void to create a landform that generally slopes from a proposed lake at the bottom of the eastern face up to the top of the western face of the quarry.
- No additional spoil is proposed to be imported to the site for filling purposes nor would the excavated material be transported off the site.
- The EIS has demonstrated that the site is suitable for the proposed use, the project is in the public interest and that it is consistent with the objectives of the Environmental Planning and Assessment Act (EP&A Act) and the principles of ecologically sustainable development.
- Council is the applicant for the proposal and in accordance with Council's probity requirements expressions of interest are currently being sought from external consultants to assess the development application.

### **RECOMMENDATION**

THAT Council note:

1. The content of Deputy General Manager's Report No. IR12/18 relating to preparation and lodgement of the Development Application and supporting Environmental Impact Statement for a range of works including extraction and placement of additional spoil material won from within the lands surrounding Hornsby Quarry to create a final landform generally in accordance with Option 1 in the Clouston Associates (2014) Recreation Potential Study for Hornsby Quarry and Old Mans Valley Lands (p.88).
2. That the proposed landform will allow for a range of recreation pursuits identified through community engagements undertaken in 2017.
3. That further community engagement will be undertaken prior to confirming the scope of park embellishments to be approved via a separate approval process.

## PURPOSE

The purpose of this Report is to advise Council of the preparation of a DA and supporting EIS for additional earthworks to create a landform in Hornsby Quarry generally in accordance with Option 1 in the Clouston Associates (2014) Recreation Potential Study for Hornsby Quarry and Old Mans Valley Lands (p.88).

## BACKGROUND

Council was required to compulsorily acquire the Hornsby Quarry site in 2002 and a levy was imposed on residents to cover the acquisition cost of about \$26 million determined by the Valuer General.

Council examined a number of development proposals during the period 2004 – 2008 to recoup the cost of acquisition, but these were ultimately not supported. In 2008 Council resolved to retain the open space zoning and develop Hornsby Quarry and adjoining sites – a total of 59 hectares - for recreational purposes. This approach has been confirmed by successive Councils and Hornsby Shire residents.

Development of the quarry and adjoining lands for recreational purposes was reflected in the current Plan of Management for Hornsby Park which was adopted by Council in November 2015. Key principles of the Plan of Management included:

- Development of a distinctive parkland that meets the need of the current and future community.
- Development of a centre for adventure tourism for the Northern Sydney region, driving local economic development and urban renewal.
- Renewing Hornsby's natural systems and connecting community to Hornsby's rich heritage and evolving story.
- Leveraging commercial opportunities that enhance the leisure experience and deliver a financially sustainable community asset.

The solution in the Plan of Management improves access to the Quarry, retains distinctive elements of the Quarry void and provides an opportunity to create a park that builds on the industrial heritage, steep topography and bushland of the site.

The strong support for the above solution led to Council supporting material from the NorthConnex tunnel project being brought to the quarry. The spoil provided by NorthConnex will not be enough to complete the creation of the landform in the Quarry void identified in the adopted Plan of Management. The remaining material will need to be sourced from the areas surrounding the Quarry void.

The works associated with the extraction and placement of the additional spoil is the subject of a development application prepared on behalf of Hornsby Shire Council.

## DISCUSSION

GHD has been engaged by Hornsby Shire Council to prepare documentation to support a DA for approval of the extraction and placement of the additional spoil under Part 4 of the *Environmental Planning and Assessment Act 1979* (the Act). An EIS has been prepared in support of the DA

### Project Overview

Key features of the project include:

- Rehabilitation, stabilisation and geotechnical safety management works around various parts of the site.
- Earthworks and placement of material won from within the site to create a final landform generally in accordance with Option 1 in the Clouston Associates (2014) Recreation Potential Study for Hornsby Quarry and Old Mans Valley Lands (p.88).

Approximately 500,000m<sup>3</sup> of spoil is expected to be generated onsite from earthworks. Much of the material would be placed on the NorthConnex spoil to create a landform that generally slopes from a proposed lake directly below the exposed eastern face up to the top of the western Quarry face. There would also be cut and fill works in Old Mans Valley to create a landform suitable for future development into playing fields and other recreational activities.

No additional spoil is proposed to be imported to the site for filling purposes nor would the excavated material be transported off the site.

Community engagements undertaken in 2017 identified the scope of potential recreation opportunities that may be accommodated in the site. The proposed landform that is the subject of the DA has been developed to allow for this range of pursuits. Council intends to also undertake further community engagement prior to confirming the scope of park embellishments to be approved via a separate approval process.

#### **Consent Authority and content of EIS**

The consent authority for the DA is the Sydney North Planning Panel due to the value of the works exceeding \$5 million. However the application will be notified and assessed by consultants on behalf of the Council.

The EIS addresses the requirements of the Secretary of the New South Wales Department of Planning and Environment (SEARs) dated 6 September 2017 and has been prepared in accordance with the provisions of the Environmental Planning and Assessment Act, 1979.

The EIS sets out the justification for the project and the results of a number of key environmental issues. These include:

- Noise and vibration assessments
- Air quality assessment
- Water assessment
- Biodiversity assessment
- Aboriginal survey report
- Statement of heritage impacts
- Traffic assessment
- Geotechnical assessment
- Soil profile investigation
- Waste management
- Socio-economic statements
- Human health considerations and appropriate mitigation measures.

The EIS has concluded that the project responds to a recognised need and provides a number of benefits, including addressing existing issues associated with the site. The EIS has demonstrated that the site is suitable for the proposed use, the project is in the public interest and that it is consistent with the objectives of the EP&A Act and the principles of ecologically sustainable development.

Critical among the above investigations are biodiversity, noise and geotechnical assessments.

The DA for the earthworks presents a geotechnical solution that will provide a safe environment for the public. The solution includes a range of measures from cutting back steep slopes, improved drainage, micro-piling and the selected use of exclusion zones at the base of the high quarry walls.

The current geotechnical studies reaffirm previous investigations carried out over several years that adjoining houses are not at risk.

The earthworks solution has also minimised the impact on the critically endangered ecological communities that exist on the site. Some regrowth areas will need to be disturbed to address safety concerns, but this impact has been reduced to the fullest extent possible and significant areas of replanting and bush regeneration have been identified.

Noise impacts are predicted to comply with relevant state government standards and policy positions.

Council is the applicant for the proposal and in accordance with Council's probity requirements expressions of interest are currently being sought from external consultants to assess the development application. In light of this and the public holiday period the application is anticipated to be lodged in early 2019.

## **CONSULTATION**

In accordance with the SEARs consultation activities were undertaken to provide details of the project and seek input from relevant stakeholders.

A wide range of activities and tools were used to engage with government agencies, stakeholders and the community during development of the EIS. This included:

- Information distribution (letter and newsletter) to nearby neighbours and opportunity for face-to-face meetings
- Letters to key government agencies
- Email blast to 40,000 residents
- Letters and emails to residents
- Project website updated
- Community Deliberative Forum and stakeholders meeting presentations
- Information boards at Hornsby Mall community 'swing by'
- Social media posts, media release
- Stakeholder meeting with Environmental and Bushwalking Stakeholder groups.

The key issues raised during consultation are addressed in the EIS.

Immediately following the statutory exhibition of the DA in early 2019 Council officers will engage our community to discuss in more detail the range and type of recreation opportunities to be provided in the various parts of Hornsby Park.

**BUDGET**

The consultant costs in assessing the application will be paid from the funds available in the Restricted Asset Account set up for major capital projects.

**POLICY**

The application will be assessed by an external consultant as Council is the applicant for the proposal. The landform sought by the works outlined in the DA and supporting EIS are consistent with Option 1 in the Clouston Associates (2014) Recreation Potential Study for Hornsby Quarry and Old Mans Valley Lands (p.88).

**CONCLUSION**

Council was required to acquire Hornsby Quarry in 2002 and since then has moved away from identifying development options to recover the acquisition cost to ultimately resolving in 2008 to retain the recreation zoning and develop the site for a range of recreation purposes. The community has on several occasions supported this decision.

Underlying the 2008 decision is intent to make a distinctive park that celebrates the site's history and rare character. There have also been a number of detailed investigations examining options to rehabilitate the quarry to allow safe access. Solutions have progressed from filling the quarry void to its rim with clean fill to a partial filling strategy and localised rectification works that complement strong park design principles that look to make distinctive and regionally attractive parkland. The current geotechnical investigations reaffirm previous investigations carried out over several years that adjoining houses are not at risk.

The NorthConnex project has been instrumental in enabling the partial filling strategy, but Council is now required to undertake further earthworks to create a safe landform capable of supporting a range of recreation opportunities. This work is subject to a lodgement of a DA and supporting EIS.

Immediately following the statutory exhibition of the DA and EIS it is intended that Council officers will engage Councillors and our community to discuss in more detail the range and type of recreation opportunities to be provided in the various parts of Hornsby Park.

**RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Deputy General Manager, Infrastructure and Recreation – Robert Stephens - who can be contacted on 9847-6665.

ROBERT STEPHENS

Deputy General Manager - Infrastructure and  
Recreation  
Infrastructure and Recreation Division



**Attachments:**

There are no attachments for this report.

File Reference: F2010/00431

Document Number: D07569843

**ITEM 6**

## 7 MAYORS NOTES FROM 1 TO 30 NOVEMBER 2018

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*Note: These are the functions that the Mayor, or his representative, has attended in addition to the normal Council Meetings, Workshops, Mayoral Interviews and other Council Committee Meetings.*

Friday 2 November 2018 – The Mayor opened and attended the Opening Night of Wallarobba Outstanding Local Artist Exhibition at Wallarobba House, Hornsby.

Saturday 3 November 2018 – The Mayor officially opened and participated in the Hornsby Relay for Life at Rofe Park, Hornsby.

Saturday 3 November 2018 – The Mayor attended Swing by Session on the Quarry EIS Proposals held in Hornsby Mall, Hornsby.

Monday 5 November 2018 – The Mayor attended a 'Meet n Greet' Morning Tea at Ku-ring gai Police Area Command with Commander, Superintendent Chris Keane and Region Commander, North West Metropolitan Region, Assistant Commissioner Mark Jones APM at Hornsby Police Station.

Wednesday 7 November 2018 – The Mayor hosted two Citizenship Ceremonies in the Council Chambers.

Wednesday 7 November 2018 – The Mayor attended the 65<sup>th</sup> Anniversary of Mt Wilga Hospital at Mt Wilga Hospital in Hornsby.

Thursday 8 November 2018 – The Mayor attended the Official Opening of the Clarke Road School Shed and Farmyard at Clarke Road School, Hornsby.

Friday 9 November 2018 – On behalf of the Mayor, Councillor Nathan Tilbury attended the Official Opening of the New Long Jump for the Northern Districts Athletics Club at Foxglove Oval in Mount Colah.

Saturday 10 November 2018 – On behalf of the Mayor, Councillor Robert Browne attended Remembrance Service and Unveiling of the ANZAC Jawan Cenotaph in Cherrybrook.

Saturday 10 November 2018 – The Mayor attended a Hornsby RSL Sub-Branch Social Function - Art Exhibition - Artex 2018, Centenary of Armistice held at Hornsby RSL, Hornsby.

Sunday 11 November 2018 – On behalf of the Mayor, Councillor Michael Hutchence attended the Beecroft Lions Club of Hornsby Remembrance Day Service at Beecroft Cenotaph in Beecroft.

Sunday 11 November 2018 – On behalf of the Mayor, Councillor Nathan Tilbury attended the Berowra RSL Sub-Branch Remembrance Day Service in Berowra.

Sunday 11<sup>th</sup> November 2018 – The Mayor attended the Hornsby RSL Sub-Branch Commemoration of Remembrance Day at Hornsby Cenotaph, Hornsby.

Monday 12 November 2018 – The Mayor attended and planted a tree at the Tree Planning Day at Greenway Park in Cherrybrook.

Tuesday 13 November 2018 – The Mayor attended the Official Opening and Ribbon Cutting of the Stephen Street Book Box held on Stephen Street in Hornsby.

Tuesday 13 November 2018 – The Mayor attended a Community Precinct Meeting at Hornsby Police Station.

Friday 16 November 2018 – On behalf of the Mayor, Councillor Robert Browne attended the Hornsby Men's Shed Christmas Get Together in Thornleigh.

Sunday 18 November 2018 – The Mayor attended International Men's Day Community Fun Day organised by Street Work Hornsby at Hornsby Westfield's in Hornsby.

Sunday 18 November 2018 – The Mayor attended The Last Musical Afternoon at Lisgar Gardens in Hornsby.

Sunday 18 November 2018 – The Mayor attend the Choral Recital by Rosalind Carlson at Mount St Benedict's School in Pennant Hills.

Thursday 22 November 2018 – The Mayor attended and officially opened the Canada v Sri Lanka Cricket Game at the Over 50's Cricket World Cup at Pennant Hills Oval, Pennant Hills.

Thursday 22 November 2018 – On behalf of the Mayor, Councillor Vince Del Gallego attended the Christian Community Aid Quarterly Meeting held in Eastwood.

Sunday 25 November 2018 – On behalf of the Mayor, Councillor Michael Hutchence attended the Golden Kangaroos Concert held at Hornsby War Memorial, Hornsby.

Monday 26 November 2018 – The Mayor attended and officially opened the College Learning Commons at Oakhill College in Castle Hill.

Wednesday 28 November 2018 – The Mayor hosted two Citizenship Ceremonies in the Council Chambers.

Friday 30 November 2018 – The Mayor attended and officially opened the 2017 Hornsby Shire Emerging Artist - Samantha Wiltshire's Exhibition at Wallarobba House, Hornsby.

File Reference: F2004/07053

Document Number: D07566633

**8 FOOTPATH LINK AND NEARBY CAR PARKING - BEROWRA RSL**

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COUNCILLOR TILBURY TO MOVE

THAT:

1. As part of Council's planning to provide a missing footpath link beside the Berowra RSL, investigations be undertaken in conjunction with representatives of the RSL to do some basic work to improve the car parking area currently leased by the RSL for its patrons but almost solely used during the week by Berowra commuters.
2. Council undertake further discussion with the owner/lessee of the carpark regarding permanent public access to the carpark.
3. An amount of up to \$10,000 be allocated to allow the investigations and works to be undertaken.

**Attachments:**

There are no attachments for this report.

File Reference: F2014/00505

Document Number: D07572169

**9 LOBBYING OF MAYOR AND COUNCILLORS - PLANNING PROPOSALS**

COUNCILLOR HEYDE TO MOVE

THAT Council:

1. Note that the ICAC has published best-practice guidelines to guide councillors, proponents of development and lobbyists in relation to land use planning and development assessment.
2. Adopt the following additional clauses in the Code of Conduct (as an addendum to the Development Decisions section in Part 3 of the Code) to increase transparency:
  - 3(vii) *That in respect of Planning Proposals (including foreshadowed and formally lodged), the Mayor and Councillors must:*
    - (a) *Keep a written record of meetings and other communications with developers, proponents and lobbyists (hereafter referred to as "applicants")*
    - (b) *Request applicants, who have approached you for a meeting, to formally write to Council to request a meeting with all Councillors and relevant council officers and to submit their arguments/proposals in writing prior to the meeting.*
    - (c) *Conduct meetings with applicants in official locations, such as Council premises, and have a senior council officer present at all times.*
    - (d) *Provide copies of information presented by an applicant during a meeting to Council officers for consideration and assessment (if required), distribution to other Councillors and filing in Council's records management system.*
    - (e) *Make a declaration at a Council meeting, during consideration of any relevant planning matter, about the lobbying activities of applicants which were not part of Council's formal engagement/consultation processes.*
3. Create a public register of meetings with applicants for Planning Proposals (foreshadowed and formally lodged) to provide transparency for the people of Hornsby Shire. The register would include meetings between applicants and the Mayor and Councillors, and the applicants be advised that the meeting details will be included in such register.

**Note from Councillor**

Lobbying is common in local government and the ICAC has a view that appropriate lobbying of councillors is normal and is seen as part of the democratic process.

Developers and their consultants have meetings with senior Council staff, and have approached the Mayor and Councillors for discussions about areas of the Shire including Hornsby Town Centre

and Pennant Hills.

It is in the public interest that lobbying is fair and does not undermine public confidence in impartial decision making.

As the Mayor and Councillors no longer have a determinative role in relation to the approval of development applications, it is only intended these changes would apply to Planning Proposals which are a prerequisite for amendment to the Local Environmental Plan.

Planning Proposals have the potential to result in significant financial benefit to proponents and careful consideration is required of the benefits of such Proposals to the Council including social, economic and environmental considerations.

Accordingly, it is important that discussions on foreshadowed or formally lodged Planning Proposals with the Mayor and Councillors, as decision makers, are made in an open and transparent manner.

**Attachments:**

There are no attachments for this report.

File Reference: F2008/00121

Document Number: D07572548

**10 FAMILY AND DOMESTIC VIOLENCE**

COUNCILLOR NICITA TO MOVE

THAT Council:

1. Recognise the unbelievable damage that family and domestic violence can have on a person's life, work and community, and that the consequences can often be felt in the workplace.
2. Note the invaluable work of the Hornsby Ku-ring-gai Women's Shelter and other similar organisations and community groups in dealing with the impacts of domestic violence in the Hornsby Shire.
3. Resolve to provide ten additional days of paid leave each year to staff of Council who are dealing with the consequences of family and domestic violence.

**Note From Councillor**

Domestic Violence (DV) stands as one of the most serious issues faced by our country in the present day; with one woman on average dying as a result of DV every week, and a ratio of one in six women and one in sixteen men having experienced physical or sexual violence since the age of fifteen. (Source: Australian Institute of Health and Welfare)

Our Hornsby Shire regrettably marks itself out as a hotspot for domestic and family violence at around 80 reported cases a month. On that figure, that means that despite the incredible work done by the Hornsby Ku-ring-gai Women's Shelter, this community and politicians (of all political stripes), despite all the fundraising and awareness campaigns, we're still seeing two or three cases each and every day. And that's only the ones we see reported.

Domestic and family violence leave is there to assist employees in attending legal proceedings, counselling, appointments with legal or medical practitioners and relocation to safer accommodation. It can often be the difference between an individual choosing to leave or stay in an abusive relationship.

Such a policy could resemble the following:

**1. General Principles**

- a) The employer recognises that employees sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work. The employer is committed to providing support to staff that experience family and domestic violence.
- b) Understanding the traumatic nature of family and domestic violence the employer will support their employee if they have difficulties performing tasks at work. No adverse

action will be taken against an employee if their attendance or performance at work suffers as a result of experiencing family and domestic violence. An employee will not be discriminated against or have adverse action taken against them because of their disclosure of, experience of, or perceived experience of, family violence.

**2. Definition of Family and Domestic Violence**

- a) For the purpose of this clause, family and domestic violence is defined as any violent, threatening or other abusive behaviour by a person against a member of the person's family or household (current or former). To avoid doubt, this definition includes behaviour that:
- i. Is physically or sexually abusive; or
  - ii. Is emotionally or psychologically abusive; or
  - iii. Is economically abusive; or
  - iv. Is threatening; or
  - v. Is coercive; or
  - vi. In any other way controls or dominates the family or household member and causes that person to feel fear for their safety or wellbeing or that of another person.
  - vii. Causes a child to hear or witness, or otherwise be exposed to the effects of, such behaviour.

**3. Family and Domestic Violence Leave**

- a) An employee, including a casual employee, experiencing family and domestic violence is entitled to ten (10) days per year of paid family and domestic violence leave for the purpose of:
- i. Attending legal proceedings, counselling, appointments with a medical or legal practitioner;
  - ii. Relocation or making other safety arrangements; or
  - iii. Other activities associated with the experience of family and domestic violence.
- b) In addition, an employee, including a casual employee, who provides support to a person experiencing family and domestic violence is entitled to access family and domestic leave for the purpose of:
- i. Accompanying that person to legal proceedings, counselling, appointments with a medical or legal practitioner;
  - ii. Assisting with relocation or other safety arrangements; or
  - iii. Other activities associated with the family and domestic violence including caring for children.
- c) This leave will be in addition to existing leave entitlements, may be taken as consecutive or single days or as a fraction of a day, and can be taken without prior



approval (much like sick leave).

**4. Notice and Evidentiary Requirements**

- a) The employee shall give his or her employer notice as soon as reasonably practicable of their request to take leave under this clause.
- b) If required by the employer, the employee must provide evidence that would satisfy a reasonable person that the leave is for the purpose as set out in clause 3a. Such evidence may include a document issued by the police service, a court, a health professional, a family violence support service, a lawyer, a financial institution, an accountant or a statutory declaration.
- c) The employer must ensure that any personal information provided by the employee to the employer concerning an employee's experience of family and domestic violence is kept confidential. Information will not be kept on an employee's personnel file.

**5. Contact person**

- a) The employer will nominate a contact person to provide support for employees experiencing family and domestic violence and notify employees of the name of the nominated contact person. The nominated contact person must be trained in relation to family and domestic violence and privacy issues relevant to the workplace and receive paid time off work to attend such training.
- b) The nominated contact person may include an external provider so long as all other requirements of clause 5a have been met.
- c) An employee experiencing family and domestic violence may raise the issue with the nominated contact person, their immediate supervisor, Health and Safety Representatives or their union delegate.
- d) Where requested by an employee, the contact person will liaise with the employee's supervisor on the employee's behalf, and will make a recommendation on the most appropriate form of support.
- e) Health and Safety Representatives and union delegates will be provided paid time off work for appropriate training in supporting employees at the workplace who are experiencing family violence.

**6. Individual Support**

- a) In order to provide support to an employee experiencing family and domestic violence and to provide a safe work environment to all employees, the employer will approve any reasonable request from an employee experiencing family and domestic violence for:
  - i. Changes to their span of hours or pattern or hours and/or shift patterns.
  - ii. Job redesign or changes to duties.
  - iii. Relocation to suitable employment within the employer.
  - iv. A change to their telephone number or email address to avoid harassing contact.

- v. Any other appropriate measure including those available under existing provisions for family friendly and flexible work arrangements.
- b) An employee that discloses to the nominated contact person or their supervisor that they are experiencing family and domestic violence will be offered: (a) access to professionals trained specifically in family and domestic violence through the Employee Assistance Program (EAP); and (b) a Resource pack containing information in relation to external support agencies, referral services and other local employee support resources.
- c) The employer will develop guidelines to supplement this clause which detail the appropriate action to be taken in the event that an employee reports family and domestic violence.

**7. Workplace Safety**

- a) The employer will implement a workplace safety plan with specific measures to minimise the risk that employees will be subject to violent or abusive behaviour at work and protocols for dealing with a crisis situation.

(Source: United Services Union)

The cost of implementing this policy is suggested to come to about five cents per worker per day. Given that the costs faced by a victim of domestic violence in leaving an abusive situation and finding safe accommodation can total as much as \$18,280, I see that as a price well worth paying.

The NSW Liberal Government have recently put the first step forward in instituting paid family and domestic violence leave for their public servants, while no less than seven other Councils have already agreed to it themselves (Bayside, Newcastle City, Liverpool, Randwick, Hills, Blacktown and Sydney).

This Notice of Motion has been brought to the table because after months of research and consultation with the Women's Shelter and other members of our community, I've formed the view that Hornsby ought to join this list sooner rather than later. It is my hope to see bipartisan support for my motion.

**Attachments:**

There are no attachments for this report.

File Reference: F2018/00299  
Document Number: D07571112

**11 PAID DOMESTIC AND FAMILY VIOLENCE LEAVE**

COUNCILLOR MCINTOSH TO MOVE

THAT:

1. In principle, Council supports the idea of providing 10 days paid Domestic and Family Violence Leave to all Council staff.
2. A briefing and/or report be prepared outlining the options for providing this Leave and examining other options for providing information to all staff and options for support.

**Note From Councillor**

Recently, the NSW Government announced plans to introduce 10 days of paid domestic and family violence leave per year for NSW public sector employees, including teachers, nurses and police, which will become effective from 1 January 2019.

As part of their announcement of the program, the Minister for the Prevention of Domestic Violence and Sexual Assault Pru Goward and Treasurer and Minister for Industrial Relations Dominic Perrottet said *“the NSW Government was ensuring victim-survivors of domestic violence had more resources and extra time to rebuild their lives. Paid work is critical in providing financial stability to people experiencing domestic and family violence, which is why the NSW Government is introducing this important reform to leave entitlements,”* Ms Goward said. *“Employees may now use domestic violence leave to seek safe housing; attend related medical and legal appointments or organise alternative care and schooling arrangements for their children and will not have to exhaust all other forms of leave beforehand.”* (Source: Ministerial Press Release 15 November 2018)

It is my belief that all local government employees should be entitled to the same level of support from their employer.

At present within Local Government, employees who experience domestic or family violence issues are required to access leave using either their existing annual leave provisions or by requesting special leave. Accessing this leave requires discussions and procedures that may add unnecessary stress to any employee experiencing difficulties. The formal introduction of paid Domestic and Family Violence Leave acknowledges the enormous impact domestic violence has on victims, their families and employers. By allowing this entitlement, it allows other leave to be utilised to provide support to enable victims to manage their own personal circumstances.

In addition to the provision of leave, Council could provide a range of services to support our staff and to reduce the effects of domestic and family violence in our community. These might include:

- Provision of information about domestic and family violence in all its forms

- Information about appropriate local support services and options

Council has significant connections to local organisations working in this sector, such as the Hornsby Ku-ring-gai Women's Shelter and their advice could be sought in regard to developing our response and working in partnership to address this issue.

Council has the opportunity to be proactive and to respond to this significant issue in our community. This Notice of Motion seeks to outline our in-principle support for paid Domestic and Family Violence Leave and seeks a further report to ascertain the best approach for our organisation, based upon the experiences of other councils and local community organisations.

**ITEM 11****Attachments:**

There are no attachments for this report.

File Reference: F2018/00299

Document Number: D07571079

**12 HERITAGE SIGNIFICANCE OF TREES IN MANOR ROAD, HORNSBY**

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**COUNCILLOR HEYDE TO MOVE**

THAT Council make an Interim Heritage Order under Section 25 of the NSW Heritage Act 1977, for the properties shown in Attachment 1 to this Notice of Motion, to enable full and proper evaluation of the heritage significance of the trees in private gardens adjoining the road reserve to determine which trees should form part of the Manor Road listing.

**Note from Councillor**

As Councillors are aware, at its meeting on 14 November 2018, Council, considered a Mayoral Minute which proposed an Interim Heritage Order Council on all properties fronting Manor Road. However, after debate, it was resolved that the Order should only apply to property No. 62 Manor Road, Hornsby. I am concerned that this Order does not go far enough to protect other trees in the front gardens of properties in Manor Road which contribute to the heritage character of the street.

I have received representations from members of the community that are concerned that the uncertainty about the heritage listing of trees in the street may result in other trees being removed as some property owners may move to remove trees before any further restrictions or regulations are applied. Trees on private properties that have not been protected from removal by a heritage listing may be removed without Council approval where the requirements of the State Government's 10/50 Vegetation Clearing regulations apply.

Accordingly, there is an urgent need for Council to move swiftly to protect trees on all private properties along Manor Road. This need arises because despite the street falling under heritage provisions in the Hornsby Local Environmental Plan 2013 (HLEP), the extent of the listing is ambiguous. It has been confirmed that the statutory listing in the HLEP is limited to the road reserve. However, the heritage inventory sheet provides a more extensive commentary and context for the listing. The inventory sheet (copy attached) references "adjoining private gardens" which should form part of the legal listing.

Schedule 5 of the LEP 2013 says that 'street trees' in Manor Road that are positioned within the 'road reserve' are heritage items of local significance. However, the on-ground reality is that there are no large stands of trees within the road reserve along Manor Road. In fact, there is only one immature Blackbutt. I believe that it is quite clear that the stand of trees that the heritage listing seeks to protect are all on private properties, not within the 'road reserve'.

The heritage-significant trees in private properties are examples of Blackbutt Gully forest, and consist of six species: Smooth-barked apples (*Angophora crostata*), Turpentines (*Syncarpia glomulifera*), Blackbutts (*Eucalyptus pilularis*) Red mahogany (*Eucalyptus resinifera* subsp. *resinifera*), Black Sheoaks (*Allocasuarina littoralis*) and Sydney peppermints (*Eucalyptus piperita*).

It is important to protect these trees with an Interim Heritage Order because they are currently able to be removed under the 10/50 Vegetation Clearing regulation because of the error in the listing which places them on the road reserve, rather than on private land. The use of an Interim Heritage Order is most appropriate in this instance as it would protect these mature old-growth endemic specimens which provide an important link between Old Mans Valley and Berowra Valley National Park and are in danger from removal.

**ITEM 12****Attachments:**

1. [↔](#) Properties for IHO
2. [↔](#) Heritage Inventory Sheet

File Reference: F2018/00047

Document Number: D07573048