



# PENRITH CITY COUNCIL BUSINESS PAPER



Councillor Ross Fowler, Chairman of Westpool, presents the Westpool Risk Management Excellence Award to Penrith City Council's Risk Management Co-ordinator, Ken Muir on 21 October 2002.



## Policy Review Committee Meeting

**25 November 2002**



# Penrith City Council

A COUNCIL COMMITTED TO PROVIDING THE HIGHEST QUALITY SERVICE TO ITS CUSTOMERS

20 November 2002

Dear Councillor,

In pursuance of the provisions of the Local Government Act, 1993 and Regulations thereunder, notice is hereby given that a **POLICY REVIEW COMMITTEE MEETING** of Penrith City Council is to be held in the Pasadena Room, Civic Centre, 601 High Street, Penrith on Monday 25 November 2002 at 7.00pm.

Attention is directed to the statement accompanying this notice of the business proposed to be transacted at the meeting.

Yours faithfully,

**Bruce McDonald**  
**Deputy General Manager**

## *B U S I N E S S*

**1. APOLOGIES & LEAVE OF ABSENCE**

**Leave of absence has been granted to:**

*Councillor Khan – 11 November to 11 December 2002 inclusive*

*Councillor Evans – 21 November to 15 December 2002 inclusive*

**2. CONFIRMATION OF MINUTES**

*Policy Review Committee – 21 October 2002*

**3. DECLARATIONS OF INTEREST**

*Pecuniary Interest (The Act requires Councillors who declare a pecuniary interest in an item to leave the meeting during discussion of that item)*

*Other Interest*

**4. ADDRESSING THE MEETING**

**5. MAYORAL MINUTES**

**6. NOTICE OF MOTION**

**7. REPORT & RECOMMENDATIONS OF WORKING PARTIES**

*Penrith Valley Community Safety Partnership – 9 October 2002*

*State Government Issues Working Party – 23 October 2002*

**8. MASTER PROGRAM REPORTS**

**9. URGENT REPORTS (to be dealt with in the Master Program to which the item relates)**

**10. CONFIDENTIAL BUSINESS**

*Enquiries regarding this Business Paper should be directed to the  
Public Officer, Peter Huxley on (02) 4732 7649*

**POLICY REVIEW COMMITTEE MEETING**

**MONDAY 25 NOVEMBER 2002**

**TABLE OF CONTENTS**

**MEETING CALENDAR**

**CONFIRMATION OF MINUTES**

**REPORT AND RECOMMENDATIONS OF COMMITTEES**

**MASTER PROGRAM REPORTS**

**PENRITH CITY COUNCIL**  
**MEETING CALENDAR**  
**November 2002 – December 2002**

	<b>TIME</b>	<b>NOV</b>	<b>DEC</b>
		<b>Mon</b>	<b>Mon</b>
Ordinary Meetings	<b>7.00 pm</b>		<b>2</b>  <b>16</b>
Policy Review Committee	<b>7.00 pm</b>	<b>25</b>	<b>9</b>

**Council has two Ordinary Meetings per month where practicable. Extraordinary Meetings are held as required.  
 Policy Review Meetings are held monthly.  
 Members of the public are invited to observe at meetings of the Council. Should you wish to address Council, please contact  
 The Public Officer, Peter Huxley on 47327649.**

**UNCONFIRMED MINUTES OF THE POLICY REVIEW COMMITTEE MEETING  
OF PENRITH CITY COUNCIL HELD IN THE PASSADENA ROOM, CIVIC  
CENTRE, PENRITH  
ON MONDAY 21 OCTOBER 2002 AT 7.04 PM**

**PRESENT**

His Worship the Mayor Councillor Greg Davies, Councillors J Aitken (from 7.24PM), D Bailey, J Bateman, D Bradbury, (from 7.20PM), G Evans, R Fowler, A Khan, K Paluzzano, P Sheehy, S Simat, and J Thain.

**APOLOGIES**

PR92 RESOLVED on the MOTION of Councillor Sheehy seconded Councillor Simat that apologies be received and accepted from Councillors C O'Neill, C O'Toole and J Greenow.

**CONFIRMATION OF MINUTES**

**Policy Review Committee Meeting – 23 September 2002**

PR93 RESOLVED on the MOTION of Councillor Sheehy seconded Councillor Simat that the minutes of the Policy Review Committee Meeting of 23 September 2002 be confirmed.

**DECLARATIONS OF INTEREST**

Councillor Bateman declared a pecuniary interest in Item 6 as he is a partner in a firm of solicitors that act for Penrith Lakes Development Corporation and he also owns property adjacent to the land that is the subject of the report. Councillor Bateman indicated that he would leave the Committee room and take no part in the debate or voting.

**MAYORAL MINUTE**

His Worship the Mayor, Councillor Davies, stated that at the WESTPOOL AGM earlier today, Councillor Ross Fowler was elected Chairman for the tenth consecutive year.

The Mayor and Councillors offered Councillor Fowler their congratulations.

In addition, WESTPOOL awarded Penrith City Council the 2002 Excellence in Risk Management Award for its Road Reserve Maintenance Program.

His Worship the Mayor, Councillor Davies, on behalf of Council, offered Council's congratulations to David Burns and his team and to Ken Muir.

**SUSPENSION OF STANDING ORDERS**

PR94 RESOLVED on the MOTION of Councillor Sheehy seconded Councillor Simat that only so much of Standing Orders be suspended to allow Mr Matt Hazell of Cambridge Park to address the meeting on item 1, Residential Development in Cambridge Park, the time being 7.06PM.

Mr Hazell said that he represented a group in Cambridge Park and that he had met with Council Officers on 9 July 2002 concerning a number of issues. Mr Hazell said that

**This is Page No 1 of the Unconfirmed Minutes of the Policy Review Committee of Penrith City Council held on Monday 21 October 2002**

Council's response had suggested that a meeting be held to further discuss the issues of attic-type developments, drainage and the matters raised by the group in their submission on the draft LEP.

Councillor Bradbury arrived, the time being 7.20PM.

Councillor Bailey said that Council needed to get a general idea of what residents of Cambridge Park feel about the implications of the Residential LEP.

Mr Hazell said although things had been explained, the group needed to be sure that their concerns had been taken into account.

Councillor Aitken arrived, the time being 7.24PM.

His Worship the Mayor, Councillor Davies, said that the report did not recommend that any decision be taken at this stage. The report still needed to go to Council taking into account the views of the group after the meeting to be held with Council.

### **RESUMPTION OF STANDING ORDERS**

PR95 RESOLVED on the MOTION of Councillor Bateman seconded Councillor Bailey that Standing Orders be resumed the time being 7.26PM.

### **REPORTS OF COMMITTEES**

#### **Services Review Working Party – 19 September 2002**

His Worship the Mayor, Councillor Davies said that paragraph 5 on page 4 of the Minutes needed to be expanded to reflect the discussion that took place as follows:

*“David Burns, Council’s Asset Manager advised that it added to the size of the network of path paving to be maintained and hence would impact on future maintenance of the path paving network. Discussion also took place on how to address unmet extensive backlog of repairs required. One of the options available to address the backlog was to divert funds from the construction of new assets to asset renewal.”*

PR96 RESOLVED on the MOTION of Councillor Sheehy seconded Councillor Bailey that the recommendations of the Services Review Working Party held on 19 September 2002 be adopted.

His Worship the Mayor ruled that item 3 would be discussed as the first item of business.

#### **3 Penrith City Centre Association and St Marys Town Centre Management Committee - Six Monthly Report 4201/53 & 4202/14**

Gary Dean, Council's Facilities Operations Manager introduced the report. He also introduced John Budin, Chairperson of the Penrith City Centre Association and Yvonne Cklamovski the Chairperson of the St Marys Town Centre Association who both gave a presentation on the activities of their various organisations for the past 6 months of this year.

Following the presentation by John Budin, Councillor Bradbury enquired about the number of vacant shops in the Penrith City Centre.

John Budin stated that there are 170 shops in the City Centre and that, at present there were 3 vacant shops.

Councillor Bradbury asked what impact the new bulky goods facilities on Mulgoa Road were having on the City Centre.

Councillor Evans left the meeting the time being 8.00PM.

John Budin responded that the impact of the bulky goods warehouses was not that great. He stated that one factor was the restriction of the size of shops in these developments to 1,000 sq metres.

Yvonne Cklamovski gave a presentation on the activities of the St Marys Town Centre Association for the first 6 months of this year.

Councillor Evans returned, the time being 8.09PM.

Councillor Bradbury asked about the status of the former KFC shop.

Yvonne Cklamovski stated that she wasn't aware of any current plans for the shop.

Councillor Bradbury asked about the status of the Street Trading Policy.

Gary Dean stated that the Draft DCP had been adopted by Council. A rezoning application, supported by Council had been forwarded to Planning NSW. There have been some delays in finalising this matter. Gary said that Council officers would pursue Planning NSW to finalise the matter.

Councillor Thain asked for clarification of the policy about residential occupancy above the shops in St Marys.

Gary Dean said that the space above the shops in St Marys, if used for residential purposes by other than shopkeepers, was not permissible under the 1960's Planning Instrument.

PR97 RECOMMENDED on the MOTION of Councillor Paluzzano seconded Councillor Bateman that Council receive the presentations regarding progress reports from the Penrith City Centre Association and the St Marys Town Centre Management Committee and thank John Budin and Yvonne Clamovski for presenting them on behalf of the organisations they represent.

## **1 Residential Development in Cambridge Park**

**4114/58**

Councillor Evans left the meeting, the time being 8.16PM.

Councillor Bradbury asked for more information about the pilot program referred to in paragraph 7 on page 2 of the report.

Craig Butler, Council's Building Approvals and Environment Protection Manager said that he would provide the details in a memo to all Councillors.

Councillor Evans returned to the meeting, the time being 8.17PM

Councillor Bailey said that the report did not address what the residents of Cambridge Park wanted and asked that the matter be referred to the next meeting of the Development Review Working Party. The report needed to include suggestions about how to address the matters raised by residents.

Councillor Bateman requested that copies of correspondence from Council to the group be provided to all Councillors.

PR98 RECOMMENDED on the MOTION of Councillor Bailey seconded Councillor Aitken.

That:

1. The information contained in the report regarding residential development in Cambridge Park be received and noted.
2. The matters raised be referred to the next meeting of the Development Regulation Working Party.
3. Copies of all correspondence to the Cambridge Park group be provided to all Councillors.

**2 Rural Fire Service**

**1011/1**

PR99 RECOMMENDED on the MOTION of Councillor Bateman seconded Councillor Evans

That:

1. the report on the Rural Fire Service be received;
2. Councillor Sheehy attend the next Zone Liaison Committee meeting.

Councillor Thain left the meeting, the time being 8.22PM.

**4 Penrith Valley Economic Development and Employment Committee**

**31/15**

Councillor Bradbury enquired about the level of Councillor representation on the Committee.

Bruce McDonald, Director-City Strategy said that it would be an independent company and that the report reflected the recommendations of the current EDEC Executive. The Board would comprise representatives from various organisations.

Councillor Thain returned to the meeting, the time being 8.25PM.

Councillor Bradbury asked what the membership contribution would be.

Jane Holdsworth, Council's Industry Network Coordinator said that it was \$275 per member.

Councillor Bradbury asked how much would be raised by the company through membership contributions.

Jane Holdsworth responded that it would be in the vicinity of \$22,000 - \$25,000.

Bruce McDonald said that the proposed structure would allow EDEC to undertake other fund-raising activities. At the moment it was being operated via GROW funding.

Councillor Bradbury stated that Council was currently contributing funds to EDEC. Under the proposal the company would determine how those funds would be expended and that Council had two members on the Board.

Bruce McDonald added that the proposal was, in essence, what was agreed to by Council.

Councillor Bailey left the meeting, the time being 8.34PM.

Councillor Bradbury asked where the funding would be coming from.

Bruce McDonald responded that the funds would be raised via a component of the General Rate as agreed to by Council. The group would have to present a Business Plan and provide Council with audited accounts.

Councillor Sheehy stated that the Minister for Local Government had approved this for a period of 10 years, but Council would have to vote the funds each year.

Councillor Bradbury said that the activities of EDEC needed to be done in a public way as it engaged in all manner of activity and asked what measures would be put into place to ensure that funds given to EDEC could not be used to oppose Council.

Bruce McDonald reiterated that the company was not a controlled entity of Council. However, procedures and protocols would be put in place that are in line with the objectives of EDEC and to satisfy Council's requirements.

Councillor Sheehy said that it was a two way process between Council and EDEC.

Councillor Bailey returned to the meeting, the time being 8.42PM.

Councillor Bradbury enquired about what would happen to the funding if Council decided not to continue funding EDEC.

Bruce McDonald said that Council could not go on collecting the rate.

Councillor Bradbury asked for clarification about the composition of the Board of the company, making reference to clause 9(b).

Bruce McDonald stated that it would not be possible for one business to hold multiple memberships.

Councillor Thain left the meeting, the time being 8.42PM.

Councillor Bradbury enquired about what would happen to Council's representatives on the board of Directors following the local government elections in September 2003.

Bruce McDonald responded that the incoming Council would appoint new Directors at the time.

Councillor Thain returned to the meeting, the time being 8.44PM.

His Worship the Mayor, Councillor Davies asked whether EDEC would prepare some Key Performance Indicators for its activities.

Bruce McDonald responded that EDEC would have both a strategic plan and a business plan.

Councillor Simat left the meeting, the time being 8.45PM.

Councillor Thain stated that the information about the activities of EDEC could be obtained from their business plan and their annual reports.

PR100 RECOMMENDED on the MOTION of Councillor Evans seconded Councillor Bateman that the Penrith Valley Economic Development and Employment Committee report be received.

**5 Property Matter. Closure of part of Riley Street.**

**326294 Pt4**

Councillors Bateman and Fowler left the meeting, the time being 8.46PM.

Councillor Bateman returned to the meeting, the time being 8.48PM.

Councillor Evans left the meeting, the time being 8.48PM.

Craig Butler, Council's Building Approvals and Environment Protection Manager, introduced the report and the Lend Lease representatives in attendance.

Councillor Evans returned to the meeting, the time being 8.52PM.

Mark Kirkland, Asset Development Manager for Lend Lease, gave a presentation on the proposed expansion of Penrith Plaza.

Councillors Simat & Fowler returned to the meeting, the time being 8.53PM

His Worship the Mayor, Councillor Davies left the meeting, the time being 8.54PM.

Councillor Bradbury left the meeting, the time being 8.55PM.

His Worship the Mayor, Councillor Davies and Councillor Bradbury returned to the meeting, the time being 9.02PM.

Councillor Bateman asked about the width of the proposed public space in the development in relation to the width of Martin Place.

Councillor Fowler questioned the description of the space as “public space” as it would be in private ownership.

Councillor Bateman said that it was private open space unless it was dedicated and that at some time in the future it could be developed

Councillor Fowler asked what the value of retail space was in the Plaza.

Councillor Evans left the meeting, the time being 9.25PM.

Councillor Simat asked about Lend Leases role in the Fox Studios site.

Mark Kirkland responded that Lend Lease were the managers of the retail facility on the site.

Councillor Aitken expressed his concerns about the traffic implications of the proposal.

Councillor Evans returned to the meeting, the time being 9.28PM.

Councillor Bailey suggested that the location of the loading dock needed to be looked at.

Councillor Bateman referred to the need for Council to receive legal advice about certain matters and asked that Council consider deferment of the report till the Legal Officer could be in attendance.

PR101 RECOMMENDED on the MOTION of Councillor Bateman seconded Councillor Sheehy that the matter be deferred to a workshop so that more information can be obtained.

## **6 Update on Penrith Lakes Planning**

**4116/26**

Councillor Bateman declared a pecuniary interest in this item as he is a partner in a firm of solicitors that act for Penrith Lakes Development Corporation and he also owns property adjacent to the land that is the subject of the report.

Councillor Bateman left the room the time being 9.32PM.

PR102 RESOLVED on the MOTION of Councillor Bradbury seconded Councillor Evans

That:

1. Council note the outcomes of the issues furthered in discussions with Penrith Lakes Development Corporation.
2. Council write to PlanningNSW urging that:
  - a) There be a whole-of-government approach brought to the delivery of infrastructure required and that relevant government agencies clearly commit to funding and an agreed timeframe for establishment;
  - b) Flood planning levels and flood evacuation issues be satisfactorily resolved prior to the exhibition of the draft REP and accompanying documents;

- c) The draft REP and EPS provide for an employment lands delivery strategy linked to the masterplan for the first residential component of the Lakes scheme; and
- d) A sound justification for moving to the high development scenario of 4,900 dwellings and the additional urban land take required to support it be included in the documents accompanying the draft REP when exhibited.
- e) A clear commitment to the recurrent funding for the management of the parklands.
- f) Urgent consideration be given to the establishment of the Parkland Authority.

Councillor Bateman returned to the Committee room, the time being 9.34PM.

**7 Proposed Glenmore Park Southern Expansion Release Area 4122/49 Pt 4**

Roger Nethercote, Council's Environmental Planning Manager, introduced the report and Kimberly Everett from EDAW planning consultants who gave a presentation on the status of the planning studies for Glenmore Park Expansion Area.

Councillor Bailey left the meeting, the time being 9.37PM and did not return.

Councillor Bradbury asked about the Australian Heritage Commission listing of the western portion of the study area raised in the presentation and the significance of the Cumberland Plain Woodland. He noted that developers would also be constrained by the State threatened species legislation.

Kimberly Everett said that the listing has statutory effect if the Commonwealth were involved in its development. She indicated that the listing on the Register of the National Estate was a recognition of the significance of the biodiversity of the site.

Councillor Bradbury asked whether the proposed development would include rural/residential lots.

Kimberly Everett stated that the western portion of the site was being considered for potential rural/residential lots, but a position had not yet been reached on the extent of such development or lot configurations. She noted that a number of issues, including servicing opportunities and the significance of the bushland and creek systems on the site need to be fully considered.

Roger Nethercote said that the Surveyor's Creek catchment which is being considered for its urban capability would be the focus of Council's submission to PlanningNSW for inclusion of the site on the Metropolitan Development Program. That request would exclude the western portion which is currently being considered for potential rural/residential development and conservation significance.

Councillor Aitken asked about the number of dwellings in Glenmore Park.

Roger Nethercote said that there were approximately 5,500 dwellings in the estate.

Councillor Khan inquired about the shape of the proposed development.

Kimberly Everett said that the boundaries of the urban development area followed the ridgeline and the water catchment.

Councillor Khan asked whether the supply of reticulated water to residents of Chain-of-Ponds Road could be looked at as part of the proposed development.

Councillor Simat asked about the source of the Journey to Work figures quoted in the presentation.

Kimberly Everett said that they had come from the 1996 census and were for the whole of Penrith.

Councillor Bradbury stated that Council had considered the jobs created by home based businesses as “jobs in the hand” and that there needed to be a consistent approach adopted by Council.

Councillor Sheehy said that the suggestion for relocation of one of the public schools in Glenmore Park needed to be factored into the employment strategy as “existing” jobs.

Roger Nethercote said that a proportion of home based businesses would occur in any new urban area. To achieve higher ratios, pro-active strategies need to be developed. He indicated the importance of ensuring an employment strategy emerges where new jobs matched incoming workforce participants. He said the full range of possibilities would be explored in the study process to meet Council’s policy. That would include recognition of any facilities relocated from the existing estate.

His Worship the Mayor, Councillor Davies, said that the matters of transport and access issues need to be taken into consideration and that work was also needed on Bradley Street.

PR103 RECOMMENDED on the MOTION of Councillor Bateman seconded Councillor Evans.

That:

1. The information contained in the report on the progress of the Glenmore Park Southern Expansion Release Area be received and noted.
2. Council endorse the presentation of the Glenmore Park Southern Expansion Release Area to the PlanningNSW Senior Advisers Group for listing of the site on the Metropolitan Development Program.

**8 Hawkesbury-Nepean Catchment Board Nominations (4121/9 Pt 5)**

PR104 RECOMMENDED on the MOTION of Councillor Sheehy seconded Councillor Evans that Councillors Greenow and Thain be the representatives nominated by Council for the Hawkesbury-Nepean Catchment Management Board.

**9 Federal Government "National Black Spot Program" (9003/12 Pt 4)  
2003/2004**

PR105 RECOMMENDED on the MOTION of Councillor Sheehy seconded Councillor Simat

That:

1. Council note the information and endorse the list of projects to be submitted for consideration by the Federal Government under its "National Black Spot Program";
2. the Asset Manager submit the above listed projects to the NSW Black Spot Consultative Panel of the Roads and Traffic Authority, for consideration for funding under the possible National Black Spot Program 2003/2004;
3. the Federal Members for Lindsay and Chifley be requested to strongly support the projects submitted by Council.

**QUESTIONS WITHOUT NOTICE**

1. Councillor Sheehy stated that on 18 October the 2002 NSW Health Awards were announced. There were 42 finalists in 8 categories. The recipient of the peak award, the "Baxter Health Award", was the Wentworth Area Health Service for their "Consumer Designing Health Care" project. Councillor Sheehy requested that the Council recognise the receipt of this award by sending a letter OF congratulations to the Wentworth Area Health Service.

There being no further business the Chairperson declared the meeting closed the time being 10.07PM.

Confirmed  
Chairperson

# **PENRITH CITY COUNCIL**

## **Procedure for Addressing Meetings**

Anyone can request permission to address a meeting, providing that the number of speakers is limited to three in support of any proposal and three against.

Any request about an issue or matter on the Agenda for the meeting can be lodged with the General Manager or Public Officer up until 12 noon on the day of the meeting.

Prior to the meeting the person who has requested permission to address the meeting will need to provide the Public Officer with a written statement of the points to be covered during the address in sufficient detail so as to inform the Councillors of the substance of the address and a written copy of any questions to be asked of the Council in order that responses to those questions can be provided in due course.

In addition, prior to addressing the meeting a person addressing Council or Committee will be informed that they do not enjoy any privilege and that permission to speak may be withdrawn should they make inappropriate comments.

It should be noted that speakers at meetings of the Council or Committee do not have absolute privilege (parliamentary privilege). A speaker who makes any potentially offensive or defamatory remarks about any other person may render themselves open to legal action.

Prior to addressing the meeting the person will be required to sign the following statement:

“I (name) understand that the meeting I intend to address on (date) is a public meeting. I also understand that should I say or present any material that is inappropriate, I may be subject to legal action. I also acknowledge that I have been informed to obtain my own legal advice about the appropriateness of the material that I intend to present at the above mentioned meeting”.

Should a person fail to sign the above statement then permission to address either the Council or Committee will not be granted.

The Public Officer or Minute Clerk will speak to those people who have requested permission to address the meeting, prior to the meeting at 6.45pm, to collect copies of documentation and signed statements and will advise them of the procedure to be followed.

It is up to the Council or Committee to decide if the request to address the meeting will be granted.

Where permission is to be granted the Council or Committee, at the appropriate time, will suspend only so much of the Standing Orders to allow the address to occur.

The Chairperson will then call the person up to the lectern or speaking area.

The person addressing the meeting needs to clearly indicate:

- Their name;
- Organisation or group they are representing (if applicable);
- Details of the issue to be addressed and the item number of the report in the Business Paper;
- Whether they are opposing or supporting the issue or matter (if applicable) and the action they would like the meeting to take;
- The interest of the speaker (e.g. affected person, neighbour, applicant, applicants spokesperson, interested citizen etc).

Each person then has five minutes to make their address. The Council or Committee can extend this time if they consider it appropriate, however, everyone needs to work on the basis that the address will be for five minutes only.

Councillors may have questions about the address so people are asked to remain at the lectern or in the speaking area until the Chairperson has thanked them.

When this occurs, they should then return to their seat.

Peter Huxley  
**Public Officer**  
02 4732 7649

July 2002

**REPORT AND RECOMMENDATION  
OF THE PENRITH VALLEY COMMUNITY SAFETY PARTNERSHIP OF  
PENRITH CITY COUNCIL HELD IN THE PASSADENA ROOM, CIVIC CENTRE,  
ON MONDAY 9 OCTOBER 2002 AT 6.30 PM**

**PRESENT**

His Worship the Mayor Councillor Greg Davies

**IN ATTENDANCE**

Yvonne Perkins (PCC), David Burns (PCC), Gary Dean (PCC) Barry Ryan (PCC) David Leavett-Brown (PCC), Erich Weller (PCC), Katerina Tahija (PCC), Susan Lucock (Nth St Marys Neighbourhood Centre), R. Lucock (Nth St Marys Neighbourhood Centre), Mick Metcalf (Blue Mountains City Rail), Terry McGivern (Nth St Marys Neighbourhood Centre) Laura Williams (WINC) Gladys Reed (Penrith Chamber of Commerce) Peter Merton (VIP Penrith Police) Wendy Herne (St Clair Erskine Park Community Safety Assoc.) Jennie Hughes (Neighbourhood development Team Erskine Park) Leishia Clissold (Fusion Sydney West) Simone Baumgarten (Glenmore Park Community Representative) Ernest Kaucis (Penrith Valley Senior Citizens) Sharon Maddox (St Marys Police) Cathie Brown (Penrith Police) Dennis Bray (Penrith Police) Lawrie Bonello (Penrith Police) Paul Haines (Penrith Police)

**APOLOGIES**

Councillor Steve Simat, Superintendent Alan Becke, (Penrith Police) Andy Hart (Wentworth Area Health).

PVCSP20 RESOLVED on the MOTION of Gary Dean seconded Sharon Maddox that apologies be received and accepted.

**CONFIRMATION OF MINUTES**

**Penrith Valley Community Safety Partnership Meeting – 26 June 2002**

PVCSP21 RESOLVED on the MOTION of Laura Williams seconded Cathie Brown that the minutes of the Penrith Valley Community Safety Partnership Meeting of 26 June 2002 be confirmed.

**DECLARATIONS OF INTEREST**

No declarations of interest.

**MASTER PROGRAM REPORTS**

**1 Penrith Valley Community Safety Plan - Key Area Strategy Development** **1117/29/pt 4**

Facilities Operations Manager presented a report on the status of the key area strategy development.

PVCSP22 RESOLVED on the MOTION of Yvonne Perkins seconded David Burns.

That:

- 1 The report concerning the Penrith Valley Community Safety Plan key area strategy development be received.
2. The responses identified for each of the key areas be endorsed by the Partnership.

**2 Penrith Valley Community Safety Plan** **1117/29/pt 4**

Facilities Operations Manager advised that the Plan had completed its exhibition period and was adopted by Council at its meeting of the 30 September 2002. The plan will now be submitted to the NSW Attorney Generals Department for endorsement as a Community Safety Compact.

PVCSP23 RESOLVED on the MOTION of Wendy Herne seconded Cathie Brown that the information in this report be received.

**3 The Australian Institute of Criminology Crime Prevention Conference in conjunction with the Crime Prevention Branch, (National) Attorney General's Department, and the Annual NSW Attorney General's Department, Safer Towns & Cities Conference.** **1117/29/pt 4**

Facilities Operations Manager presented a brief information report on the attendance of Council staff at recent conferences.

PVCSP24 RESOLVED on the MOTION of Ernest Kaucis seconded Lawrence Bonello that the report on the attendance at these two conferences be received.

**4 Eagleby Qld, Community Cultural Development Project** **1117/29/pt4**

At the invitation of the Penrith Valley Community Safety Partnership Kevin McMillan, Chairperson for the Eagleby Residents Action group addressed the meeting on the Eagleby Community Cultural Development Project. Kevin's presentation included highlights on the community involvement in the development and implementation of the Project.

Kevin's presentation prompted discussion on numerous aspects related to the Project. Questions were generated from both partnership members and community guests present. There was unanimous support for the value of the information presented during the presentation.

His Worship the Mayor, Councillor Greg Davies presented Kevin with a gift in appreciation of his time and effort in presenting to the Partnership, the story of the Eagleby Community Cultural Development Project.

PVCSP25 RESOLVED on the MOTION of Councillor Greg Davies seconded Laura Williams.

That:

1. the presentation on the Eagleby Community Cultural Development Project be received.
2. the Partnership formally thanks Mr Kevin McMillan for his commitment in travelling to Penrith to make this presentation.

## **5 Presentation on the Youth Needs Audit**

**1117/29/pt 4**

Council's Youth Development Officer, Katerina Tahija advised the partnership on the findings of the Penrith Youth Needs Audit, in particular the aspects relating to Community Safety issues.

PVCSP26 RESOLVED on the MOTION of Councillor David Burns seconded Gary Dean that the information and presentation on the Youth Needs Audit be received.

## **General Business**

### **Crime Figures**

Lawrie Bonello & Sharon Maddox tabled the crime figures for the period July-September 2002 for both Penrith & St Marys LACs.

#### **Penrith LAC**

	July	August	September
Assault	94	95	78
Break & Enter	93	111	93
Drug Detection	21	44	21
Major MVA	66	82	78
Malicious Damage	97	97	114
Robbery	16	11	13
Stealing	257	281	238
Stolen Vehicles/vessel	85	96	68
Street Offence	107	86	49
Traffic Offence	390	438	387

#### **St Marys LAC**

	July	August	September
Assault	65	72	89

---

Break & Enter	95	136	108
Malicious Damage	126	130	123
Robbery	11	17	19
Stealing	188	187	175
Stolen Vehicles	73	53	43

### **Media**

Deferred to next meeting.

### **Safety Audit/Assessment procedure**

Asset Manager detailed the procedure to be followed for the conduct of future safety audits/assessments. Copy of procedure attached.

### **Future Partnership meetings**

Facilities Operations Manager suggested future partnership meetings are held in February, May, August & November. Members agreed to this timeframe.

### **Small group meetings**

Community safety Co-ordinator stated that the next round of small group meeting would commence prior to the end of the year. Members to be contacted with recommended dates.

### **Legislative Authorities re works on Private Property.**

Community Safety Coordinator advised that a stepped procedure would be developed with Council's Health & Environment Unit to determine what legislative authorities exist to allow Council to direct work to be done on private lands.

Community Safety Audits identify issues relating to private property as well as public space. The development of this procedure is necessary prior to the conducting of Community Safety Audits to advise private property owners that an audit is to be conducted in their area and to highlight their responsibilities for property management and maintenance.

### **Classifiers on Blaikie Road.**

Community Safety Coordinator advised that vehicle classifiers had been placed in Blaikie Road, Penrith to determine the extent of illegal vehicle use and the times that it may occur.

### **Future meeting venues**

His Worship the Mayor raised the possibility of having future Partnership meetings at venues external to the Civic Centre. This will be further investigated.

### **Lukes Lane**

Wendy Herne advised that a re-visit of the previous Lukes Lane (St Clair) community safety audit was to be undertaken on the 15<sup>th</sup> October 2002.

There being no further business the Chairperson declared the meeting closed the time being 9pm.

Confirmed  
Chairperson

**REPORT AND RECOMMENDATIONS**  
**OF THE STATE GOVERNMENT ISSUES WORKING PARTY OF PENRITH CITY**  
**COUNCIL HELD IN THE PASSADENA ROOM, CIVIC CENTRE, PENRITH**  
**ON WEDNESDAY 23 OCTOBER 2002 AT 7.00 PM**

**PRESENT**

His Worship the Mayor Councillor Greg Davies, Councillors J Bateman, R Fowler, J Greenow, C O'Neill, K Paluzzano and P Sheehy.

**APOLOGIES**

SG11 RESOLVED on the MOTION of Councillor Fowler seconded Councillor Greenow that apologies be received and accepted from Councillor D Bradbury, G Evans, C O'Toole, J Thain and S Simat.

**ALSO IN ATTENDANCE**

General Manager, Director – City Planning, Director – City Operations, Director – City Services, Chief Financial Officer, Environmental Planning Manager, Asset Manager, Building Approvals and Environment Protection Manager, Facilities Operations Manager, Design and Technical Advice Manager, Information Manager, Acting Community Development Manager and Executive Officer.

**DECLARATIONS OF INTEREST**

No declarations of interest were made at the beginning of the meeting, however, during discussion about the Penrith Stadium, Councillor Bateman declared a non-pecuniary interest in the matter but reserved his right to speak.

**MASTER PROGRAM REPORTS**

**1 State Government Issues**

**750/9 Pt 3**

The Director – City Planning, Alan Stoneham, provided the Working Party with background to the meeting. He stated that 40 issues had been identified for the Working Party's consideration for the meeting with State Members of Parliament to be held on 13 December 2002.

Each issue listed in the report was then discussed, in turn with Directors and Managers providing additional information as necessary.

The items discussed and the priorities assigned, were as follows:

*Penrith Football Stadium – (High Priority)*

During discussion about this item, Councillor Bateman declared a non-pecuniary interest in the matter but reserved his right to speak on the matter.

It is important to tie together the sporting and the cultural aspects of Council's submission.

*Funding for Penrith Conservatorium of Music – (High Priority)*

It was estimated that funding in the order of \$150,000 per annum would be required.

*Waste Water Reuse Scheme – (High Priority)*

More detailed costings are required from Sydney Water on this matter. Examples of successful sewer mining schemes needed to be included.

*Sewering of Londonderry and Agnes Banks – (High Priority)*

This matter needs to be pursued in order to gain a commitment from the State Government.

*Mainstream Water Quality and Aquatic Plant Management. – (High Priority)*

This matter is essential for the long-term health of the river. Responsibilities for the care and management of the river need to be clarified. A program that looks at the whole of the river system is preferred.

*Transport.*

Councillor Bateman left the meeting, the time being 7.49PM and did not return.

Councillor Greenow left the meeting, the time being 7.54PM.

The list of existing deficiencies in the transport system in the City needs to be included.

Councillor Greenow returned to the meeting, the time being 7.56PM.

Councillor Paluzzano left the meeting, the time being 7.56PM.

Commitment, rather than funds, are needed from state government agencies.

Councillor Paluzzano left the meeting, the time being 8.10PM.

*Maintenance of State Infrastructure.*

Government agency responsibilities need to be identified.

*Bushland Management.*

No additional matters raised.

*Economic Development.*

No additional matters raised.

*General Discussion.*

The approach to the meeting with State Members was discussed.

It was decided that material would be assembled under broad category headings and packaged separately so that State Members could send out the information relevant to each Ministerial portfolio along with their own representations. Ownership of the material by the members was seen as vital to the success of the process.

The material would be prepared and submitted to State Members prior to the meeting with Council.

SGI2 RESOLVED on the MOTION of Councillor Greenow seconded Councillor Thain that the information contained in the Working Party Discussion Paper on State Government Issues be noted.

There being no further business the Chairperson declared the meeting closed the time being 8.24PM.

Confirmed  
Chairperson

## **MASTER PROGRAM REPORTS**

<b>Item</b>		<b>Page</b>
<b>THE CITY IN ITS ENVIRONMENT</b>		
1	Resource NSW - The Draft Waste Avoidance And Resource Recovery Strategy 7004/54	1
2	Draft Heritage Management Development Control Plan 4112/20 Pt 2	7
<b>THE CITY AS A SOCIAL PLACE</b>		
3	Penrith Whitewater Stadium Ltd - Annual Report And Board Of Directors 2988/15	11
4	City Of Penrith Regional Indoor Aquatic And Recreation Centre Ltd - Annual Report And Board Of Directors 2986/8	16
5	Community Solutions - Mt Druitt Initiative 1359/4 Pt5	20
<b>THE CITY AS AN ECONOMY</b>		
6	Penrith Valley Economic Development And Employment Committee 31/15	23
<b>COUNCIL'S OPERATING ENVIRONMENT</b>		
7	Community Consultation Policy And Procedure 1129/42	25
8	Corporate Annual Report 10/46	35
9	Financial Health Check 6035/17	36



**Item****Page****THE CITY IN ITS ENVIRONMENT**

1	Resource NSW - The Draft Waste Avoidance And Resource Recovery Strategy 7004/54	1
2	Draft Heritage Management Development Control Plan 4112/20 Pt 2	7

---

## The City in Its Environment

### 1 Resource NSW - The Draft Waste Avoidance and Resource Recovery Strategy

7004/54

Compiled by: Geoff Brown, Waste Management Supervisor

Authorised by: Barry Ryan, Waste & Community Protection Manager

**Management Plan 4 Year Outcome (Page 35):** *Resident and business waste to landfill is reduced.*

**02/03 Critical Action:** *Develop initiatives to encourage and promote recycling and waste minimisation.*

#### Purpose:

*To advise Council in broad terms the function of Resource NSW, its Draft Waste Avoidance and Resource Recovery Strategy and its impact on Council.*

#### Background

Resource NSW is a statutory body created under the Waste Avoidance and Resource Recovery Act 2001 to replace the NSW Waste Boards. Resource NSW brings together the staff and expertise of the Waste Boards to develop and implement a comprehensive waste strategy for the whole of NSW.

Resource NSW is required by legislation to develop a Waste Strategy for NSW within 12 months from inception (1 October 2001). This Strategy has been developed and comment has been requested.

Whilst the closing date for comment has passed, Resource NSW has been advised that Council has not had the opportunity to consider the document and prepare a response, and this is primarily due to the short timeframe provided for comment (one month).

This report will recommend that a submission on the Strategy be submitted to Resource NSW, with comments indicated in *Italics* in this report.

#### Current Situation

The Waste Avoidance and Resource Recovery Act 2001 replaces the previous Waste Minimisation and Management Act 1995. It was the latter Act that created the NSW Waste Boards and the waste reduction targets of 60% by the year 2000.

The objectives of the new Act (in brief) are:

- to encourage efficient use of resources in accordance with the principles of ESD
- to prioritise the hierarchy of resource management options in the following order:
  - avoid unnecessary resource consumption
  - maximise resource recovery
  - disposal
- to provide continued reduction in waste generation

- to minimise consumption of natural resources by avoiding, reusing and recycling waste
- to ensure industry shares its responsibility for reducing and dealing with waste
- to ensure the efficient funding of waste, and resource management planning programs and service delivery on a State-wide basis
- to assist in the achievement of the objectives of the Protection of the Environment Operations Act 1997

Generally, the functions of Resource NSW are as follows:

- to develop, implement and co-ordinate the implementation of (and evaluate strategies and programs for State-wide achievement of) government policy objectives in respect of:
  - resource efficiency and waste reduction in relation to regions, industry sectors or material types
  - community education on resource efficiency, waste reduction and management
  - programs for litter prevention and illegal dumping
  - market development for recovery resources and recyclables
  - information dissemination
- to develop, co-ordinate and monitor implementation of event and public space waste management codes
- to assist local communities to enter into arrangements for regionally based secondary resource recovery from waste
- to assist in developing co-ordinated waste management services, including systems and contract reform
- to research and develop waste reduction and resource efficiency infrastructures, technology and systems
- to develop and support training and education programs for resource efficiency, waste reduction and waste and litter management
- to monitor, report and evaluate the regional information of State-wide policies and strategies with respect to waste

Section 12 of the Waste Avoidance and Resource Recovery Act requires the Resource NSW to develop a waste strategy for the State of NSW. A draft strategy has been prepared based on continuous improvement and to be benchmarked against international best practice. The strategy includes targets for waste reduction resource recovery and the diversion of waste from landfill disposal, developed by an expert reference group appointed by Resource NSW. Subsequent waste strategies to replace existing strategies are to be developed at intervals of not more than two years.

## **The Draft Waste Avoidance and Resource Recovery Strategy**

### ***What is the Strategy***

The strategy is about products and materials that are commonly called “waste” by the community. It applies to everyone as individuals, householders, employees, producers of goods and services, retailers, educators and government. The challenge is to prevent and avoid the creation of waste by “smarter” product and process design and by recovering used products and materials, reusing them for other purposes to keep them in the material cycle.

The strategy is the primary strategic document to guide the efforts of state and local government agencies, industry and the broader community in waste prevention and avoidance, reuse and recycling.

The strategy identifies targets for achieving waste avoidance and resource recovery and sets a framework for delivering targets through the commitment of industry, government and other stakeholders to key programs and actions.

The general public, industry and Councils have been invited to make comment on the strategy.

### ***The Role of Resource NSW as specified in the Draft Strategy***

Resource NSW’s role is to facilitate and implement waste avoidance and resource recovery programs on behalf of the government and the community of NSW.

It will support local government, business, industry and individuals to implement programs that achieve the waste avoidance and resource recovery outcomes in the priority areas identified in the strategy.

Programs will include development and promotion of standards, best practice and assessment methodologies, cleaner production, waste avoidance research, education, data collection, benchmarking against world class practice, monitoring and reporting.

### ***Priority Actions as specified in the Strategy***

Priority actions to achieve change are identified for various groups, including manufacturers, transporters, retailers, consumers, governments, collection system operators and reprocessors. The actions include:

- Product redesign by manufacturers to reduce total material and energy inputs used per unit of production and to design for reuse;
- Improved stock management and product purchasing practices from retailers to reduce waste from spoilage and to proactively support reusable and recycled content products;
- Improved office systems and practices in all workplaces to avoid the unnecessary use of resources and encourage the recovery of resources, particularly paper;
- Product or process redesign to remove or phase out potentially harmful substances and consumer education to ensure safe storage, recovery and disposal;
- Increased reprocessing capacity for electrical goods, food and garden organics, office paper, asphalt, brick and timber; and

- Improved systems for recovery and reprocessing of garden and food organics.

### ***Key Outcome Areas and Targets***

The key outcome areas in the strategy include:

- Avoidance and prevention of waste
- Increased use of renewable and recovered materials
- Reducing toxicity in products and materials
- Reducing litter and illegal dumping

The Waste Avoidance and Resource Recovery Act requires targets to be set in the strategy to help guide and measure performance. Broad targets have been selected for each of the four key outcomes. These targets are:

- Avoiding and preventing waste – waste generation levels to be maintained between 2000 and 2005 to establish a holding pattern on the amount of waste generated. This is needed to stem the current trend for increased waste generation and to allow time to audit and activate a detailed Waste Prevention Strategy to be developed during 2003.
- Increased recovery and use of recovered materials – the strategy proposes the following targets by 2014.

<i>Waste Stream</i>	<i>Current Resource Recovery</i>	<i>Target</i>
Municipal	25%	66%
Commercial & Industrial	23%	63%
Construction & Demolition	60%	76%

**Note:** Council's current recovery rate through recycling alone is 19%. With the introduction of the South Windsor Pre-Treatment Facility (in 2004?) our recovery rate will extend to 48%. The Civic Centre/Library waste recovery rate is approximately 60%. Parks and Reserves garden organics reuse rate is 100%. With the introduction of other alternative technology providers such as Waste Service NSW the 66% target is achievable.

- Litter and illegal dumping – this outcome currently does not have a quantitative target, however, the EPA is developing a methodology for measuring the amount of litter we create which will be used as a benchmark to establish future targets.
- Reducing toxicity – in products and materials – the phasing out of priority substance in identified products to reduce environmental damage is the primary target.

### ***Who Does the Strategy Apply to?***

The groups that must work together to achieve the outcomes and targets identified in the strategy include:

- Resource NSW
- Local government
- Business
- Waste and recycling industry
- Industry associations
- Community and non-government organisations
- Education providers
- Government organisations

Council's role, both individually and regionally, is in the following areas:

- Service delivery and integration of systems
- Planning and development – Local Orders Policies, Development Control Plans and infrastructure development
- Educating communities
- Delivery of programs to avoid waste and resource recovery
- Data collection and reporting
- Purchasing of products and materials with recycled content

Other key materials identified for action in the strategy include office paper, packaging, paint, tyres, batteries, treated timber, cigarette butts and electronic goods.

### **Summary**

The strategy appears to be a flow-on from the work previously developed by the Waste Boards and in our case, closely follows much of the directions set by the Western Sydney Waste Board. Council has been developing and implementing programs and activities along the lines of the majority of issues outlined in the strategy that affects local government. Under the Western Sydney Waste Board, Council participated in regional and local education and promotional programs, provided services to the community on waste reduction and avoidance, provided recycling services for the community and has participated in a joint venture for the processing of our domestic waste for reuse. Council is therefore already implementing many of the strategies identified by Resource NSW.

It appears that the waste industry is now looking at alternative technology as a preference to traditional landfilling practices. Alternative technology has been introduced at Port Macquarie, Port Stephens and Wollongong and future facilities are being developed at Eastern Creek (Waste Service NSW) and South Windsor (Council and Resource NSW).

It seems that local government has partially achieved the objectives of waste avoidance and resource recovery. However, to achieve the targets outlined in the strategy, markets for secondary resources need to be developed and maintained, and research and development of waste reduction and resource efficiency infrastructures and technology must be pursued. Further, industry must be forced to share its responsibility for reducing and dealing with waste.

Local Government authorities were invited to attend briefing sessions at various venues in the metropolitan area. Council officers attended the meeting at Holroyd on 14 October 2002.

The timeframe for reply to the strategy was 28 October 2002. Resource NSW has been advised that it is considered that there was insufficient time provided to examine the draft strategy and report this matter to Council before the deadline.

Resource NSW was further advised that it was likely that Council would make a submission on the matter.

Some concerns are raised with the Strategy and these have been discussed with staff of Resource NSW. It will be recommended that the following issues be presented to Resource NSW as Council's submission on the Draft Waste Avoidance and Resource Recovery Strategy.

1. The Draft Strategy provides for a series of actions; however, the responsibility for carrying out these actions is unclear. Ideally, actions should be provided with timeframes together with the identification of the responsible party. Alternatively,

actions should not be included, thus creating a higher level document out of which will flow responsibilities, actions and sub-programs.

2. There appears to be a need to exert greater pressure on the C&I/C&D sectors to avoid excessive waste generation. Particular areas should include the “take-away” food industry, which has a major impact on both waste and litter generation.
3. The roles of the various players is unclear, in particular that of Resource NSW.
4. There is a strong bias to resource recovery with waste avoidance seemingly taking a far less significant role.
5. It is noted that the target for waste generation is to maintain current levels between 2000 and 2005.

Given that we are fast approaching Year 3 of this timeframe, this target does not appear to be feasible. Further, it is likely that the impact of the recovery and utilisation targets will assist and may lead to achieving the waste generation target without any significant reduction in waste actually occurring. If this is not the case, the Draft Strategy does not appear to be clear in this regard.

#### **RECOMMENDATION**

That:

1. the information contained in the report concerning Resource NSW - The Draft Waste Avoidance and Resource Recovery Strategy be received;
2. a submission on the Draft Waste Avoidance & Resource Recovery Strategy, in terms of this report, be submitted to Resource NSW.



## The City in Its Environment

### 2 Draft Heritage Management Development Control Plan

4112/20 Pt 2

**Compiled by:** Terry Agar, Senior Environmental Planner

**Authorised by:** Roger Nethercote, Environmental Planning Manager

<p><b>Management Plan 4 Year Outcome (Page 37):</b> <i>The City's cultural and environmental heritage values are appreciated and conserved by the community.</i> <b>02/03 Critical Action:</b> <i>Review the effectiveness of Council's Heritage Policies and responses.</i></p>
--

#### **Purpose:**

*Council resolved on 30 September 2002 to refer this matter to the Policy Review Committee for further consideration. This report addresses the issues raised at that meeting.*

#### **Background**

The background to the draft Heritage Management DCP and the submissions received during its public exhibition was outlined in the 30 September 2002 report to Council which is appended to this report.

At the 30 September 2002 clarification of a broad range of issues was requested. They included:

- Impact of the Threatened Species Conservation Act;
- Relationship between the Heritage LEP and DCP with State and Federal Legislation;
- Confirmation that admission to the Potential Place of Heritage Significance List will be determined by Council and not its delegate;
- Impact of the amendment of the Commonwealth Environmental Protection and Biodiversity Conservation Act to protect heritage; and
- Are the Potential Places of Heritage Significance on Council's website?
- The assessment of applications within the vicinity of a heritage item.

#### **Impact of the Threatened Species Conservation Act**

The NSW Threatened Species Act 1995 (TSC Act) aims to protect listed vulnerable and endangered species, critical habitats and ecological communities. The TSC Act operates independently of Council's Heritage LEP and the proposed DCP.

In circumstances where a development proposal impacts on both listed heritage items and listed TSC Act species, critical habitats and ecological communities, the significance of the impact on cultural and natural heritage will be assessed by Council on their merits and a decision that respects and balances all of the competing values will be arrived at.

In our view, the TSC Act would not have adverse impact on the operation of Council's Heritage LEP and the proposed DCP.

#### **Relationship between the Heritage LEP and DCP with State and Federal Legislation**

Council's Heritage LEP protects heritage items and heritage conservation areas of local heritage significance. The draft DCP will assist Council and the community in managing

existing heritage items and heritage conservation areas as well as identifying new Potential Places of Heritage Significance.

The NSW Heritage Act operates independently of Council's Heritage LEP and proposed DCP. The NSW Heritage Act protects heritage items of state significance listed on the State Heritage Register. Penrith currently has 15 items listed on the State Heritage Register. Approval from the NSW Heritage Council is required to undertake restoration and improvement works on these items.

Currently the Australian Heritage Commission Act (AHC Act) identifies place of national significance on the Register of the National Estate (RNE). Penrith currently has 27 items listed on the Register of the National Estate.

The Register of the National Estate identifies those places of heritage significance to the nation. Development of land owned by the Commonwealth on the RNE, or development proposals by Commonwealth agencies or businesses must respect the national estate heritage values of places. The State Government and local councils do not have a role under the AHC Act as consent authorities to assess the heritage impacts of development proposals.

The Heritage LEP and the DCP work in concert with places listed on the RNE and do not conflict with it. The assessment of any place with a dual listing on the Heritage LEP and the RNE will take into account the national heritage significance.

#### **Admission to the Potential Place of Heritage Significance List**

All nominations to the Potential Place of Heritage Significance List provided for in the DCP will be considered and determined by the Council. The DCP specifically requires "the Council" to make the determination to list a place. Council's delegate will not make such determinations.

#### **Impact of the Amendment of the Commonwealth Environmental Protection and Biodiversity Conservation Act to Protect Heritage**

The Commonwealth Government proposes to amend the Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act) to create a scheme to identify, protect and manage places having natural, indigenous or historic heritage significance. This will see the transfer of the heritage protection functions currently under the AHC Act to the EPBC Act.

The proposed amendments were debated in the Senate during 2001 and sent to the Senate Environment, Communications, Information Technology and the Arts References Committee Inquiry for public comment. Council made a submission to the Senate Committee and a number of Council's recommendations were adopted. The adopted recommendations have now been incorporated in a revised Bill that is currently before Parliament.

The Environment and Heritage Legislation Bill (No. 1) 2002 will not adversely impact on Council's consideration of development proposals for local heritage items, or identified Potential Places of Heritage significance listed under the DCP. The Bill establishes a Commonwealth heritage regime that will focus on matters of national significance and Commonwealth responsibility, including the establishment of a National Heritage List and a Commonwealth Heritage List. It also contains transitional provisions in relation to places included in the current Register of the National Estate that will now be retained.

The Minister is responsible for assessing the impact of development proposals on the heritage values of a listed place. The NSW State Government and local councils do not have a role in assessing heritage impacts under the proposed Bill. Penalties will apply to developers that do not obtain consent from the Minister to develop National Heritage Places.

### **Are the Potential Places of Heritage Significance on Council's website?**

There are no Potential Places of Heritage Significance on Council's website as Council has not resolved to adopt the DCP. The DCP provides for the listing of such places on its website so that current up to date information is available to interested parties.

### **Assessment of applications within the vicinity of a heritage item**

The Penrith Heritage LEP requires Council to make an assessment of the impact of developments on heritage items. The term "in the vicinity" is not defined in the LEP, but a process is in place to identify those development applications that are near listed heritage items. The Building Approvals and Environmental Protection Department currently has in place two mechanisms to alert assessing officers to the existence of heritage items nearby. Officers are required to use a special enquiry function in Council's geographical information system that maps the existence of all heritage items nearby. The proximity of a heritage item and the circumstances of the case will dictate what further assessment and consideration of heritage matters will be required to be undertaken. The second mechanism, is the delegated authority system requiring a senior officer to check the issue of a consent which provides for the peer review of all development applications.

The draft DCP will reduce the impact of developments on heritage items by providing a definition of what "in the vicinity" means. This will assist Council in more accurately determining when the impact of a development proposal on a heritage item requires further detailed investigation and assessment.

### **Conclusion**

The Heritage Management DCP will provide major improvements to the management of Penrith's heritage assets. It will operate independently from State and Commonwealth legislation concerned with natural and cultural heritage protection.

The public exhibition process elicited a wide range of public submissions, many of which discussed in the previous report to Council have lead to minor amendments to the DCP. The DCP will improve our management of places of heritage significance across the City and accordingly it is recommended that Council adopt the DCP as amended and attached to this report.

### **RECOMMENDATION**

That Council adopt the Heritage Management Development Control Plan as amended and attached to this report.



**THIS PAGE HAS BEEN LEFT INTENTIONALLY BLANK**

<b>Item</b>		<b>Page</b>
<b>THE CITY AS A SOCIAL PLACE</b>		
3	Penrith Whitewater Stadium Ltd - Annual Report And Board Of Directors 2988/15	11
4	City Of Penrith Regional Indoor Aquatic And Recreation Centre Ltd - Annual Report And Board Of Directors 2986/8	16
5	Community Solutions - Mt Druitt Initiative 1359/4 Pt5	20

---

## The City as a Social Place

### 3 Penrith Whitewater Stadium Ltd - Annual Report and Board of Directors

2988/15

Compiled by: Gary Dean, Facilities Operations Manager

Authorised by: Steve Hackett, Director - City Services

<p><b>Management Plan 4 Year Outcome (Page 64):</b> <i>Community recreation facilities and services in new and established areas meet contemporary needs.</i></p> <p><b>02/03 Critical Action:</b> <i>Provide in partnership with others an agreed plan for delivery of recreation facilities and services based on available resources.</i></p>
--

#### Purpose:

*To provide details to Council following the Fourth Annual General Meeting of Penrith Whitewater Stadium Ltd. The Chairman and the Stadium Manager will be making a brief presentation to this meeting.*

#### Annual Report

This report to Council follows the Fourth Annual General Meeting of the Company held on Thursday 19 September 2002 for the period ended 30 June 2002.

The Chairman of the Board and Stadium Manager will be in attendance tonight to make a short presentation. Following are their reports extracted from the Annual Report.

#### Chairman's Report

*"It gives me much pleasure to present the Chairman's Report to the Fourth Annual General Meeting of Penrith Whitewater Stadium Limited.*

*The last financial year represented the first complete full year of operations of the company as a public recreation facility. Revenue for the year was \$1,739,646. The financial results for the year ended 30 June 2002 resulted in a surplus before depreciation, amortisation and interest of \$210,536. Capital Expenditure by the company during the year was \$141,527. The Stadium continued to contribute to the overall Penrith economy and the advancement of the sport of canoe slalom both locally and internationally.*

*The success of the operations is a result of the continuing dedication of the employees of the Penrith Whitewater Stadium. Peter Flowers, the centre Manager, the management team and staff are to be congratulated for the efficient and effective operations of the business and the excellent manner in which the services are delivered to the public at large. The Stadium is the premier facility within Australia and continues to be consulted regarding the development of other facilities both within Australia and overseas.*

*Penrith Whitewater Stadium continues to generate a great deal of publicity both nationally and internationally. Recognition of the centre's importance was acknowledged when it received two awards and a commendation at the recent Western Sydney Industry Awards. The centre continues to deliver the objectives set out by Penrith City Council in delivering a world class recreation facility and*

*providing training and education initiatives to elite and up and coming athletes to further the sport of canoe slalom. In this regard, the centre works closely with the Australian & New South Wales sporting institutes.*

*The coming year will focus on the continuing expansion of the business. The proposed extensions are planned to be completed and this will enable the introduction of new products. The planning for the urban area of Penrith Lakes is under way and there will be a number of opportunities that arise which will improve the continued viability of the business. These opportunities may involve partnerships with other organisations and further capital investment from both Penrith Whitewater Stadium Limited and Penrith City Council.*

*Finally I would like to take this opportunity to thank my fellow directors for their continuing input and commitment to the operations of Penrith Whitewater Stadium.”*

**The Stadium Manager’s Report states:**

*“Penrith Whitewater allows clients to experience the excitement of 21<sup>st</sup> century whitewater rafting at its best, on a purpose built whitewater course under the friendly guidance of highly trained river guides. The company remains devoted to providing a quality venue and service catering to medium level adventure and outdoor recreation and also to hosting championship whitewater canoe/kayak events.*

*The Stadium remains a world leader in the provision of artificial whitewater and a major tourist attraction serving the Penrith Area, The Western Sydney Region and Greater Sydney. As an industry leader the business has focused on the enjoyment of clients and the service offered to them along with the observation of very strict safety standards and staff training. At year’s end the business had a workforce consisting of 6 permanent employees, 1 permanent part time employee and a pool of Casual Raft Guides, Whitewater Instructors and Café personnel..*

*The venue has been open daily throughout the year providing services including:*

- *Guided & Self Guided Whitewater Rafting*
- *Recreational Canoe/Kayak Paddling on both flat and whitewater*
- *Instruction in Canoe & Kayak paddling at Beginner, Intermediate and Advanced levels*
- *High level Competition for Canoe/Kayak Slalom, Canoe/Kayak Freestyle, Rapid River Racing and Raft Racing*
- *Associated facilities such as the Café and a Beach Volleyball Court.*

*Rafting has been the venue’s main commercial activity and has continued to operate in an efficient manner with 23500 clients participating in the activity throughout the year. The weekends are by far the most popular time. This year during the busier summer weekends we saw the introduction of additional overlapping raft trips which meant that the potential rafting capacity increased significantly without any detrimental impact on the quality of trips and the experience of our clients. The Canoe / Kayak Instruction Program which was introduced last year has grown in popularity and has proven to be a definite strong performer within the growth of the business. The Schools Instruction Program has also been very popular with 237 students participating in 4,095 hours of instruction throughout the year.*

*Canoe/kayak competition is the other major focus of the venue. The major events conducted throughout the past 12 months included:*

*The Australian University Games - September 2001*

*Penrith Whitewater Freestyle Champs - November 2001*

*Canoe 2002 – National Championships in: - April 2002*

*Canoe/Kayak – Slalom*

*Canoe/Kayak – Freestyle*

*Wildwater Sprints*

*Rafting.*

*Penrith Whitewater International Slalom Series - February 2002*

*(A National Slalom Team Selection Event)*

*Penrith Whitewater Freestyle Challenge - March 2002*

*(A National Freestyle Team Selection Event)*

*Penrith Whitewater Slalom Series in*

*Summer 2001 - February & March 2002*

*Winter 2002 - June & July 2002*

*Such events have continued to attract many people, both competitors and officials alike, to the local region. For example, 38% of competitors at the **Penrith Whitewater International Slalom Series** were from interstate and 26% from overseas.*

*Holiday Coaching Clinics for Canoe Slalom have also been conducted during school vacation periods. Throughout the year 56 paddlers have been enrolled in these courses. The clinics have also been well supported by members of the National Team who have assisted with coaching.*

*The Stadium has continued to support the National Canoe / Kayak Slalom in partnership with the Australian Institute of Sport, The New South Wales Institute of Sport and the Australian Canoeing. The stadium has supplied national team members with annual paddling passes and approximately 465 hours of water for team training slots. Support of the Western Sydney Academy of Sport Canoe Slalom Program has also continued throughout the year by supplying three squad members with annual passes and seven squad members with access to a weekly training session.*

*Our community profile has been enhanced by our continued participation in the Colo River clearing program carried out in conjunction with the National Parks and Wildlife Services. In this Penrith Whitewater has trained participants in rafting and then provided equipment for the river clearing expeditions. The Company's Charity Program has continued to operate and 113 Gift Certificates have been donated to various charity organisations, schools, sporting associations and local fundraising campaigns.*

*One of the highlights of the year was the announcement of the Western Sydney Business Awards. Penrith Whitewater nominated for the two categories of Adventure Tourism and Significant Regional Attraction. It is pleasing to report that the Company won both of these awards and was also given a Highly Commended Award for the Most Outstanding Contribution to Western Sydney Tourism by a Medium Sized Business.*

*The Café which was opened at the end of last year has experienced some teething problems in its first year of operation. With a new Café supervisor a new direction for this venture will be sought. The café has been successful in offering a range of catering options to our clients.*

*During the winter of 2001 Stage One of the Landscaping Plan was completed. This saw the development of a native garden and park land areas. The main plantings in this stage included a garden surrounding the whitewater channel, the spectator bank areas and the beach volley ball area. All plantings have been of varieties which are native to the Cumberland Plain and thus the theme for the landscaping has been maintained.*

*During the year an integrated sound system delivering music and radio to significant sections of the venue was introduced. This represented a major capital outlay and is capable of being extended to other sections of the course as finances permit.*

*Staff uniforms were also introduced which have been successful in identifying Penrith Whitewater staff for clients and also in boosting staff morale.*

*As part of the landscaping plan a beach volleyball court has been developed. This has allowed for the introduction of yet another activity on site which has been useful in attracting larger groups who wish to stay for longer periods at the venue.*

*After a successful year in 2002 we now look forward to further expansion and growth while retaining our status as a major player in both the outdoor adventure industry and the field of Canoe / Kayak Competition and Education.”*

Copies of the Annual Report have been provided to Council.

The loss from ordinary activities of the Company for the period after providing for depreciation and amortisation of \$152,481 amounted to \$66,238. On a statement of cash flow basis, the Company operated with a surplus of \$659,835 (\$636,358 – 2001). The Company operated with an accumulated profit at the end of the period of \$143,036 (\$209,274 – 2001). Employee benefits have been fully taken up. There was no benefit received (or due and receivable) by Directors from entities in the economic entity and related bodies corporate.

### **Board of Directors**

The Articles of Association of the above company provide, in part, that:

1. To provide continuity the members of the Board shall resign on a rotating basis. At the First Annual General Meeting, three (3) Directors (including one (1) Councillor) shall resign. At the Second Annual General Meeting, three (3) members shall resign (including one (1) Councillor). Thereafter, the members of the Board, except the Council Officer, shall resign after they have served on the Board for three (3) years after appointment or re-appointment to the Board.

2. All retiring Directors shall be eligible for re-appointment.

Council should note that as per the Articles of Association, Councillor Gregory Evans and Councillor Ross Fowler resigned at the Fourth Annual General Meeting of Penrith Whitewater Stadium Ltd held on 19 September 2002 and nominated for re-appointment. It was resolved at the Fourth Annual General Meeting of Penrith Whitewater Stadium Ltd that Penrith City Council be requested to endorse the appointment of Councillor Gregory Evans and Councillor Ross Fowler as Directors of Penrith Whitewater Stadium Ltd.

#### **RECOMMENDATION**

That:

1. The information concerning Penrith Whitewater Stadium Ltd Annual Report and Board of Directors, be received.
2. Council agree to underwrite the operations of Penrith Whitewater Stadium Ltd for the twelve months to end June 2003, subject to receipt of Penrith Whitewater Stadium's budget.
3. Councillor Gregory Evans and Councillor Ross Fowler be appointed as Directors to fill the vacancies that occurred at the Fourth Annual General Meeting of Penrith Whitewater Stadium Ltd.



---

**The City as a Social Place**

**4 City of Penrith Regional Indoor Aquatic and Recreation  
Centre Ltd - Annual Report and Board of Directors**

**2986/8**

**Compiled by: Gary Dean, Facilities Operations Manager**

**Authorised by: Steve Hackett, Director - City Services**

<p><b>Management Plan 4 Year Outcome (Page 45):</b> <i>Community recreation facilities and services in new and established areas meet contemporary needs.</i></p> <p><b>02/03 Critical Action:</b> <i>Provide in partnership with others an agreed plan for delivery of recreation facilities and services based on available resources.</i></p>
--

**Purpose:**

*To provide Council with details following the Eighth Annual General Meeting of the City of Penrith Regional Indoor and Aquatic Recreation Centre Ltd. The Chairman and General Manager will be making a brief presentation.*

**Annual Report**

This report to Council follows the Eighth Annual General Meeting of the Company held on 8 October 2002 for the period ended 30 June 2002.

Following are extracts from the Annual Report.

**Chairman's Report**

*"It gives me much pleasure to present the Chairman's Report to the Eighth Annual General Meeting of the City of Penrith Regional Indoor Aquatic and Recreation Centre Limited.*

*The highlight of the year was the opening of the Hydrotherapy Centre on Saturday the 3<sup>rd</sup> November 2001 by the Premier of N.S.W. – Bob Carr. This was the culmination of a lot of planning and effort by both staff and directors of Ripples. My thanks to David Trist, whose vision and drive was paramount in delivering this fine community facility and to David Thompson who ensured that the event went according to plan.*

*The construction of the Hydrotherapy facility was part financed by Ripples through borrowings of \$1.4m.*

*Overall the Centre has traded satisfactorily, operating revenue from customers has increased by 6.76% however, this has not been reflected in an increase in operating profit. The operating profit for the year before depreciation (\$219,524), interest (\$48,782), grant from Penrith Council (\$441,000) and grant from the NSW Government of \$703,000 was \$43,864. This result has been achieved after paying salary and wages and providing for employee benefits of \$1,636,412 and after expenditure on repairs and maintenance of \$87,190. In addition the investment in the Hydrotherapy Centre, the company continues to invest in the Centre operations with Capital Expenditure during the year totalling \$178,577. The operations of the Centre have been adversely affected by the start up cost and operational costs of the Hydrotherapy facility. This situation has now been rectified with the Hydrotherapy facility trading to budget.*

*The success of Ripples operations is a result of the continuing dedication of the employees of the company. The facility continues to be recognized within the aquatic industry as a leader in its field. The General Manager, Geoff Yates the management team and the staff at Ripples are to be congratulated on their efficient and effective operation of the Centre and the excellent manner in which services are delivered to the community.*

*The major challenges for the future include the consolidation of the hydrotherapy operations and the profitable operation of that Centre, planning for enhancements to the café to improve the amenity and the functionality of that area and the planning for future maintenance requirements of the aquatic Centre building.*

*Finally, I take this opportunity to sincerely thank my fellow directors, Jackie Greenow, Christine Keeble, Lynette Crossley, David Trist, Craig Butler, Alan Brown, Greg Davies, Rodney Watson and John Thain for their work in ensuring the continued success of Ripples.”*

### **General Manager’s Report**

*“It is my pleasure to present the General manager’s report to the 8<sup>th</sup> Annual General Meeting of the City of Penrith Regional Indoor Aquatic & Recreation Centre Limited. The 2001/2002 year presented challenges to the operations of the center both in staffing and the bringing on-line of the new Hydrotherapy Centre.*

*Mr Bob Carr, Premier of New South Wales, officially opened the Hydrotherapy Centre on The 3rd November 2001. It was extremely pleasing to see the culmination of years of planning come to fruition. I would like to thank Mr David Trist, Deputy Chairman for his staunch advocacy for the construction of this facility since it was first mooted in 1997. I would also like to thank those staff at Penrith City Council who sat on the various committees during the planning stages prior to and during construction. Hydrotherapy has become an integral part of the Ripple operations. From slow beginnings the center has increased patronage by well over 100% to date with continual enquiries from new community groups wishing to use the facility.*

*Patronage for both centres saw an increase in usage over the previous year of 4396 visits. Total attendances of 682,274 were pleasing given the inclement summer weather conditions this year.*

*Membership sales continue to be strong and we are maintaining an average membership base of 1750. New programmes introduced this year were:*

- ★ *Body Balance – a yoga based class providing gentle exercise.*
- ★ *Vietnam Veterans – Heart Moves programme – designed to assist Vietnam veterans achieve a healthier lifestyle.*
- ★ *Clozapine Group – held in conjunction with Nepean Hospital to provide exercise to assist a group taking this particular drug.*

*Most classes continue to be fully utilized with more classes being introduced to cater for increased demand.*

*The Learn to Swim and Squad programmes continue to perform strongly. The Swimming Department was restructured during the year to meet the increased demands of our patrons. Many good performances have been recorded with many personal best times, placings and medals being achieved. The swimmers are a credit to the Centre and the efforts of the coaching staff.*

*Maintenance is an ongoing process to ensure the facilities meet the needs of our patrons. This year saw the installation of a new Building Management System and ancillary equipment. This system has effectively put the entire building air conditioning and heating systems back into optimum performance, stabilizing energy consumption and in the long term produce cost savings. I am pleased to report that the center has received no complaints regarding pool water temperature issues since the installation of the BMS system.*

*This year the Centre won the Outstanding Fitness and Leisure Centre Category of the St Marys/Mt Druitt Small Business Awards. Unfortunately, due to a change in the entry criteria we were unable to proceed to the Champion of Champions Awards. It is pleasing however that the center continues to be recognized for its outstanding service by patrons.*

*Industry concerns were raised again earlier this year with the collapse of the RANS Management group, owing many millions of dollars to creditors. RANS managed many Council owned facilities throughout Australia and has caused Councils to reassess the usage of these type of management companies in the operation of their facilities. This collapse did not have a direct effect on Ripples, but again brought the spotlight on the recreation industry and how it operates.*

*As previously mentioned staffing has been a challenge this year with some changes in our Management Team structure. We have appointed Mrs Jayne Berry as Sales & Promotions Manager, Mr John Speirs as Squads Supervisor, Mrs Ann Matthias as Learn to Swim Supervisor and Mrs Sally Philp as Childrens Programmes Supervisor. The continued commitment and dedication of all staff to the aims and vision of Ripples continues to see the center at the forefront of the aquatics industry. The staff are the greatest asset at Ripples and I thank them for their outstanding performance.*

*I would also like to thank the Board of Directors for their support, encouragement and guidance throughout the year.*

*The year ahead is one of continuing to build the business in both centers as well as meeting and exceeding where possible the expectations of our community.*

*With the support of the Ripples Team I have every confidence in their abilities to meet the challenges ahead.”*

The profit of the Company for the financial year after providing for depreciation of \$219,524 and repairs and maintenance of \$87,190 amounted to \$946,209. This higher profit figure is a result of the transfer into the book of accounts of the value of the Hydrotherapy Centre. On a statement of cash flow basis the Company operated with a surplus of \$470,408 (\$588,831 – 2001). There was no income received (or due and receivable) by Directors from entities in the economic entity and related bodies corporate.

### **Board of Directors**

The Articles of Association of the company provide, in part, that:

1. To provide continuity the members of the Board shall resign on a rotating basis. At the First Annual General Meeting, three (3) Directors (including one (1) Councillor) shall resign. At the Second Annual General Meeting, three (3) members shall resign (including one (1) Councillor). Thereafter, the members of the Board, except the Council officer, shall resign after they have served on the Board for three (3) years after appointment or

re-appointment to the Board.

2. All retiring Directors shall be eligible for re-appointment.

Council should note that as per the Articles of Association, Councillor John Thain and David Trist resigned at the Annual General Meeting of the company held on 8 October 2002 and nominated for re-appointment. It was resolved at the Eighth Annual General Meeting of the City of Penrith Regional Indoor Aquatic and Recreation Centre Ltd that Penrith City Council be requested to endorse the appointment of Councillor John Thain and David Trist as continuing Directors of the City of Penrith Regional Indoor Aquatic and Recreation Centre Ltd.

The Board also resolved to nominate to Council the re-appointment of David Ernest Trist (77 years of age) as a candidate who is of or over the age of 72 years in accordance with the Companies Act 1981 (S226) as a Director of the City of Penrith Regional Indoor Aquatic and Recreation Centre Ltd until the conclusion of the next Annual General Meeting of the Company.

### **RECOMMENDATION**

That:

1. The information concerning the City of Penrith Regional Indoor Aquatic and Recreation Centre Ltd be received.
2. Council agree to underwrite the operations of the City of Penrith Regional Indoor Aquatic and Recreation Centre Ltd for twelve months to end June 2003 subject to receipt of Ripples – St Marys Leisure Centre's budget.
3. Councillor John Thain and David Trist be appointed to fill the vacancies that occurred at the Eighth Annual General Meeting of the City of Penrith Regional Indoor Aquatic and Recreation Centre Ltd.



---

**The City as a Social Place**

**5 Community Solutions - Mt Druitt Initiative**

**1359/4 Pt5**

**Compiled by:** Erich Weller, Community Programme Co-ordinator

**Authorised by:** Carol Joyce, Community Development Manager

**Requested by:** Councillor John Thain

<p><b>Management Plan 4 Year Outcome (Page 51):</b> <i>Effective responses to social impacts emerging from growth, development and change.</i></p> <p><b>02/03 Critical Action:</b> <i>Assess the social impacts of urban change in both new release and established areas, and develop planned responses in partnership with others.</i></p>
---

**Purpose:**

*To inform Council of the Mt Druitt Community Solutions and Crime Prevention Initiative and how it more specifically relates to North St Marys. This report proposes that Council receives a presentation by representatives of the Premiers Department regarding the Mt Druitt Community Solutions Initiative.*

**Background**

At the Policy Review Meeting of 23<sup>rd</sup> September, 2002 Council received a report on the North St Marys Community Renewal Workshop held at St Marys Rugby League Club on 15<sup>th</sup> August, 2002.

As a result of that report Council resolved “to continue to engage with the Premiers Department, the Department of Housing and the St Marys Rugby League Club to pursue funding contributions towards the project (that is the enhancement of North St Marys Hall)”.

Council also resolved at that meeting to receive a further report on the Mt Druitt Community Solutions initiative when Cabinet has made a decision on the package.

The Premier of NSW, the Hon. Mr Bob Carr, MP, announced the \$14 million Mt Druitt Community Solutions and Crime Prevention Package on 13<sup>th</sup> October, 2002 at Shalvey PCYC. The press release from the Premier indicated that the announced package also covers the suburb of North St Marys.

At the Ordinary Meeting of 14<sup>th</sup> October, 2002 Councillor Thain requested that representatives of the Premiers Department be invited to make a presentation to Council on the Initiative.

The Premiers Department has accepted that invitation. Representatives here this evening are Mr John Scott, Director, Economic Development Strategic Projects, Strategic Projects Division and Mr Robert Lennon, Western Sydney Regional Co-ordination. Mr Neil Sandall, currently Regional Director, Department of Housing, Western Sydney Region is also here this evening. Mr Sandall will be Project Director of the Mt Druitt Community Solutions and Crime Prevention Project.

**RECOMMENDATION**

That the Premiers Department representatives, Mr John Scott and Mr Robert Lennon be thanked for their presentation on the Community Solutions initiative.



**THIS PAGE HAS BEEN LEFT INTENTIONALLY BLANK**

**Item**

**Page**

**THE CITY AS AN ECONOMY**

6 Penrith Valley Economic Development And Employment  
Committee 31/15

23

---

**The City as an Economy**

**6 Penrith Valley Economic Development and Employment  
Committee**

**31/15**

**Compiled by: Jane Holdsworth, Industry Network Coordinator**

**Authorised by: Bruce McDonald, Director - City Strategy**

**Management Plan 4 Year Outcome (Page 68):** *An environment conducive to business is in place.*

**02/03 Critical Action:** *Pursue, in partnership with economic groups, integrated initiatives to improve business sustainability and the City's economic performance.*

**Purpose:**

*The purpose of this report is to provide the Policy Review Committee with the process of reporting to be undertaken by the incorporated EDEC to Penrith City Council and to provide a copy of the Final Draft Constitution adopted by the EDEC Committee.*

**Background**

At the Policy Review Committee Meeting of 21 October 2002, it was requested that EDEC provide a written confirmation of the process of reporting that EDEC as an incorporated body will provide to the Penrith City Council.

**Current Situation**

On 12 November 2002 a meeting of the EDEC Committee was held. At that meeting a Final Draft Constitution was adopted by the Committee. A copy of that Final Draft Constitution is attached for consideration.

Having regard to the discussion which occurred at the Policy Review meeting of 21 October 2002, regarding accountability and reporting on the use of Council's funding subsidy, the EDEC Committee adopted the following draft reporting process for consideration by the Policy Review Committee.

1. A Draft Business Plan be provided annually to Penrith City Council prior to funding being made available.
2. A detailed quarterly report on the progress of the Corporation towards the business plan be provided to Council.
3. A formal tabling to Council per annum of the Corporation's Annual Report.
4. Supplementary report to be provided as to how the Penrith City Council funds have been expended during the course of the year and the benefits gained from that expenditure towards furthering local economic development.

## **RECOMMENDATION**

That:

1. The Final Draft Constitution as adopted by the EDEC Committee be endorsed.
2. A Draft Business Plan be provided annually to Penrith City Council prior to funding being made available.
3. A detailed quarterly report on the progress of the Corporation towards the business plan be provided to Council.
4. A formal tabling to Council per annum of the Corporation's Annual Report.
5. A supplementary report to be provided as to how the Penrith City Council funds have been expended during the course of the year and the benefits gained from that expenditure towards furthering local economic development.



**Item****Page****COUNCIL'S OPERATING ENVIRONMENT**

7	Community Consultation Policy And Procedure 1129/42	25
8	Corporate Annual Report 10/46	35
9	Financial Health Check 6035/17	36

---

## Council's Operating Environment

### 7 Community Consultation Policy and procedure

1129/42

**Compiled by:** Peter Goodfellow, Corporate Development Officer  
**Authorised by:** Ross Kingsley, Acting Corporate Development Manager

**Management Plan 4 Year Outcome (Page 111):** *Effective communication occurs throughout the organisation, with the community, and among major city organisations.*  
**02/03 Critical Action:** *Implement enhanced community consultation processes.*

#### Purpose:

*The purpose of this report is to seek Council approval to engage a consultant to assist the organisation in the development of a new "Community Consultation Policy" and a "Community Consultation Manual" to assist in the implementation of the policy.*

#### Background

##### Links to Council's Strategic and Management Plans

Council's Strategic Plan states that, in its charter, Penrith City Council is charged with providing leadership to the City's community. It states that "it will exercise that leadership through wide consultation" and that "pride in the city and its achievements will be encouraged among residents, by seeking comment on issues and participation in which they have a stake."

It is emphasised that "Council is moving beyond simply consulting with communities and others on decisions which affect them. It is moving to engage them more closely in developing responses to the issues they face and to encourage their active participation with Council in addressing those issues. That will require the organisation to consolidate and strengthen its relationship with the community and those groups."

As is stated in the Access and Equity activity program in Council's Management Plan, "Council provides, supports, and participates in a range of consultation focussing on identifying and prioritising the needs of communities and groups including the mandatory target populations. Consultation also extends to social issues, services and infrastructure, and may include key stakeholders, such as service providers as well as consumers and residents. Council is also committed to providing opportunities for identified groups to participate in activities and decision making processes which affect them. This increases the transparency and accountability of Council to all of its constituents, and in particular to identified groups." The 2001-02 Management Plan included the task 'Develop a framework for customer research within Council's Community Consultation Policy'.

In scoping the work required to complete this task it became apparent that there was a need to develop a new policy and procedures for community consultation by the organisation. An initial set of community consultation guidelines (*Towards better community outcomes through participation and consultation, a discussion paper prepared for Penrith City Council 1996*) was not able to provide the guidance that the organisation needs today. Quarterly reviews of the Management Plan in 2001-02 identified that additional resources were required to prepare the policy and a proposal was made for funding in the 2002-03 Management Plan.

Council subsequently approved funding of \$50,000 to enable external resources to be provided to assist Council officers to develop the consultation policy, associated procedures and a consultation program. The project is included as Task 30.39 'Develop a new policy and procedures for community consultation' in the present Management Plan.

While appropriate methods of communication need to be identified in the policy and procedures it should be noted that a separate unfunded project bid in 2002-03 was directed to the development of an internal and external communication strategy for the organisation. In the absence of resourcing for the project at this point, Task 30.40 'Scope requirements for a communication policy and procedures for communication both within the organisation and with the community' has been included in the Management Plan.

## **Introduction**

In order to provide an adequate level of information for the decision making process on this issue, two research strands were pursued:

**Current consultation policies and procedures adopted by external organisations (external research)** – to identify the issues that are relevant to the creation of community consultation policies and their attendant procedures, local government and other organisations were contacted by email, phone and the internet for copies of their relevant documents and other input.

**Current consultation methods and procedures undertaken by the organisation (internal research)** – to describe the current situation of the organisation's consultation methods and procedures, two tasks were undertaken:

1. a search was made of current organisational documents relating to consultation processes.
2. interviews were conducted with relevant council staff including Directors, as well as managers and supervisors directly responsible for conducting community consultations.

General information was sought on current practices and perceptions about the consultation process including:

- What is consultation;
- Why we consult;
- Who we consult with;
- When we consult;
- How we consult – including existing procedures for consultation;
- Issues related to the consultation process - problems with and ways to improve the consultation process.

## **Current trends in community consultation policies and procedures**

The key issues identified through this research and Council's considerations will form the basis of a project brief for the engagement of consultants to formulate a comprehensive policy and procedures. External research conducted to prepare this project has identified a number of themes in policy and procedure documents.

In general, consultation policy/protocol documents specify:

- *Definitions of key terms* - i.e. consultation, community. (See Appendix 2 for a range of definitions);
- *Why consult* - including purpose and objectives, underlying principles and philosophy, benefits of consultation;
- *When to consult* – what issues require consultation and at what level, in some cases what issues would not appropriately be the subject of consultation;
- *How to consult* – general consultation planning considerations, factors affecting consultation.

Procedures and guidelines manuals are designed to accompany and expand on the policy/protocol documents by providing practical assistance in how to conduct community consultations.

In general, consultation procedures/guidelines manuals specify:

- *Reiteration of the policy/protocol*;
- *Guidelines on consultation project planning* – aims, tasks, timing, budgeting, monitoring, evaluating and feedback;

- *Guidelines on choosing consultation methods* - for determining the appropriate methods of consultation for all purposes and levels of consultation, usually including a matrix/diagram matching consultation methods with consultation purposes;
- *Guidelines to using the techniques and methods of consultation* - including
  - step by step processes,
  - checklists,
  - document templates.

## **Current situation at Penrith City Council**

### **Current documentation.**

Council's current guidelines for community consultation are documented in:

"Towards better community outcomes through participation and consultation, a discussion paper prepared for Penrith City Council 1996."

This publication contains:

- *Definitions of key terms* - i.e. consultation, public participation and various consultation techniques;
- *Why consult* - some objectives of consultation in general;
- *Guidelines* - some very general guidelines on increasing and maximising participation, matching consultation techniques with consultation purposes.

As its title suggests, it is more of a discussion paper than a fully fledged policy and manual of consultation.

A small range of other publications is used across the organisation to assist staff in the consultation process. They do not provide specific guidelines and procedures to follow to implement the particular consultation methods. There are two publications that are more specific in that they provide instructions and procedures for officers to follow in particular situations. These are:

- Notification and advertising; Development control plan, Penrith City Council, 2000,
- Negotiation and consensus policy, Penrith City Council, 2001

These two documents are used extensively by officers in regulation processes.

For most other consultation processes, there are no officially documented specific procedures, protocols, guidelines or manuals to guide staff. Effective consultation practices have been developed in various areas of the organisation, however there is no framework to ensure an organisation wide consistency of approach.

### **What is consultation?**

Council's 1996 discussion paper defines consultation as:

"the act of asking the advice of others on questions or proposals having regard to their own organisation's interests in a matter under consideration. Consultation is a two way flow of information between a council and its community with the council actively consulting its constituents on their views and reactions to Council proposals."

### **Why and when do we consult?**

Council has various obligations to consult the local community on issues, plans and strategies that may directly or indirectly affect it.

Occasions when community consultations occur include when:

- There are any changes that will impact on current users or customers of a Council service or facility; e.g. changes to parks and playing fields;
- There are legislative requirements regarding community consultation; e.g. Management Plan process, some Development Application processes;
- Any issues or changes to Council services which will affect the rights or entitlements of community members, including minority groups; e.g. Draft Baby Care Room Development Control Plan;

- There is a potential impact of a proposed development on surrounding neighbours; e.g. overshadowing;
- Identifying community issues, needs and priorities; e.g. Penrith Valley Community Safety Plan, Penrith Lifestyle Aspirations and Needs Study;
- Monitoring customer satisfaction with Council's services and facilities; e.g. regular customer surveys by child care centres and preschools;
- There is a high level of sensitivity involved in an issue; e.g. Penrith Rural Lands Study;
- There is divergent views among community members about an issue; e.g. some development issues like the Mulgoa Rd tunnel;
- An issue may have potential impacts on the health, safety or well-being of any community ; e.g. the Londonderry Tip issue, Badgerys Creek Airport;

Consultation is essential if Council is to respond to the needs and priorities of the Penrith community. It is also well recognised that *effective* consultation can lead to significant time, resource and cost savings for Council and, ultimately, the community. It is good business practice.

Consultation is not, however, a substitute for Council decision making. It is an input into that decision making process. Clear communication of the purpose and limits of consultation would also form part of an effective set of guidelines.

### **Who do we consult with?**

The community as a whole is often consulted, for example during Strategic Plan and Management Plan development, and when contentious issues arise. However, the 'community' in its parts, as residents, stakeholders and special interest groups, is also consulted widely.

The 'community in its parts' includes:

- Government organisations (Federal Government Departments/Agencies, State Government Departments, Local Government Authorities and agencies);
- Community Based Groups (e.g. business, sporting, cultural groups etc);
- Educational Institutions;
- Private Organisations;
- Specific Population Groups (e.g. the seven target groups, residents of particular areas);
- Elected Representatives;
- Internal Penrith City Council (interdepartmental consultation which leads to enhanced customer service).

### **How do we consult?**

At present, the organisation uses a wide range of consultation methods. These include:

- Advertisements calling for submissions on issues being proposed;
- Written requests for submissions from stakeholders;
- Submissions from customer/user groups and individuals
- Advisory Committees;
- Boards of management – e.g. the new Children's Services Cooperative Board;
- Management Committees of community facilities;
- Direct mail – targeted letter box drops with information or seeking information;
- Discussion groups;
- Focus groups;
- Forums – both public and interest groups;
- Individual consultations with partners;
- Letters of notification;
- Networking meetings with interest groups, community groups, govt departments, etc;
- Public meetings;
- One to one – face to face individual consultation on particular issues whether at council or in the community;

- Presentations to groups;
- Public Exhibitions/Displays - including those legally required, travelling roadshows;
- Publicity - Community Annual Report, Community Newsletter, media releases, promotional materials, displays at education and public information events;
- Surveys – personal interview, mail, telephone;
- Electronic - Website “Your feedback” and Email;
- Workshops;
- Working Parties.

### **Issues arising from current procedures**

From the internal research conducted, a number of issues regarding current practices in community consultation were identified.

#### **What do the customers think of our consultation?**

The research undertaken for this project does not yet incorporate the customer’s viewpoint. While any policy document will be exhibited for public comment in draft form before it is adopted, there are opportunities to get some customer viewpoints before this stage.

- During the policy development stage, community members could be included in the process. This would need to be specified in the brief for the process and appropriate approaches determined with the consultant;
- A customer service survey will be conducted early in 2003. This survey could include question/questions about community satisfaction with Council’s consultation practices.

#### **Objectives of consultation, decision making and community expectations**

Council’s interim consultation guidelines, ‘*Towards better community outcomes through participation and consultation*’ are very broad. In some situations, the decision making process during consultations is not clear to community members. How the decision is being made and by whom needs to be clearly specified for all levels of consultation and at all stages of consultation if this confusion is to be minimised. This means being specified in the consultation policy and re-emphasised down to the level of the individual letters sent to residents.

A clear policy statement, specifying:

- what Penrith City Council means by consultation;
- the different levels of consultation that Penrith City Council will engage in;
- the objectives of these different levels of consultation;
- the decision making process that Council will go through to make its decision at each level ;

would help to eliminate this confusion and facilitate much clearer communication between the organisation and the community.

#### **Determining when and who to consult**

At the moment, beyond legal requirements, there are no guidelines for who should be consulted, or when and how consultation should be undertaken. Sometimes, there are multiple constituencies to consider where one or other of those constituencies may be easier to reach and thus more accessible for consultation. Questions may arise as to the equity and the effectiveness of consultation if all constituencies are not engaged.

In order to maintain a consistent approach to consultation and the perception of fairness, a set of guidelines would be useful. These guidelines would outline criteria to be considered for determining who will be consulted, when consultation is required and why, and to what level. It could also include all the legal requirements that Council has for consultation. It would provide clarity and transparency for council staff and the community.

### **Choosing consultation methods**

In some cases, the consultation methods presently chosen are not necessarily the ideal methods to achieve the objectives of the consultation. There is a risk that the method chosen may be the one that staff have expertise in, rather than the most effective one. It may be the method for which resources are available, rather than the most appropriate one.

A consultation manual would be of great benefit to the organisation. It could provide officers with practical guidance on how to choose the right consultation methods for each purpose.

### **Implementing consultation methods**

Many methods of consultation are presently used but consistency across the organisation in implementing all of these methods is uneven. This affects the outcomes of the consultation and the perceptions of the community about council. A manual to provide Council staff with practical guidance on 'how to' undertake different types of community consultation would help to create consistent delivery of consultation.

### **Resourcing consultation and the volume of consultation**

Resourcing the organisation for the increasing amount of consultation required by the greater expectations of the community is problematical. At present, the methods chosen for consultation may be chosen on the basis of their economical use of resources rather than their aptness for the consultation objectives.

When balanced against the costs of not consulting, i.e. the cost of providing the wrong services or services that are unwanted by the community, then consultation is an investment in good outcomes. If more consultation is required without an increase in resources to manage it, then this can slow down the implementation of Council's program. This can lead to criticism of the organisation for slowness in delivery of outcomes. Our policy approach must always be clear on the need to deliver outcomes and not focus on consultation as an end in itself. At this stage, an ongoing awareness of the issue is required.

### **Documentation of consultation policies and procedures**

There is very little current documentation of organisational consultation practices. The few documents used (noted above) are useful in their contexts but not comprehensive for the whole organisation.

In discussions with key staff involved in consultation, a general desire was expressed for some documented procedures and guidelines to choosing and implementing consultation methods. It was felt that this would save time, increase the quality of consultations and allow consistency of approach across the organisation.

### **Training**

If a community consultation policy and manual are developed, then the organisation will need to be trained in their use and implementation if they are to be effective.

There are also other training needs beyond the scope of this project. As already stated, expertise in various consultation methods is uneven across the organisation. In discussions with staff involved in consultation, a need was expressed for training in effectively implementing some consultation methods. There are courses available from external training providers in these techniques.

Another training need, both directly and indirectly expressed, was for skills in dealing on a one to one level with difficult customers. In many cases, the degree of satisfaction of a community member with a one to one consultation (think of a development application) is a direct reflection not so much of *what* is said and done but *how* it is said and done. This need will be met through programmed training as determined by the Customer Service Review.

### **Conclusions**

For the community to trust the organisation and consistently engage with it in consultation, there needs to be a consistency and transparency of approach to consultation. A consultation

policy along the lines discussed above will assist in providing this consistency. It will do this by clearly specifying, in Council's terms:

- What consultation is - and any other related terms;
- Why Council consults - including purpose and objectives, underlying principles and philosophy, benefits of consultation;
- When Council will consult – who will be consulted, what issues require consultation and at what level. This section will need to specify clearly that Council will be making the decision and what part the consultation will play in Council's decision making process;
- How Council will consult – general consultation planning considerations, factors affecting consultation;

To implement this policy effectively, a consultation manual, for the organisation to use in conjunction with the policy, will be required. It will do this by providing:

- Guidelines on consultation project planning – aims, tasks, timing, budgeting, monitoring, evaluating and feedback.
- Guidelines on choosing consultation methods - for determining the appropriate methods of consultation for all purposes and levels of consultation.
- Guidelines to using and implementing the techniques and methods of consultation - including
  - step by step processes,
  - checklists,
  - document templates

To maximize the effectiveness of the policy and manual, training will be required in their use. Training will also be needed in various consultation methods.

The organisation does not have the resources to engage in this process alone. It will need the assistance of an expert and objective consultant to assist in the preparation of a policy, procedure manual and training plan. It is proposed that quotations be sought from qualified consultants with the intention of bringing forward a draft of the Community Consultation Policy for Council consideration in early 2003. The development of a Procedure Manual will occur concurrently, but would not be completed until after Council's adoption of the policy.

## **RECOMMENDATIONS**

That:

1. The information on the community consultation policy project be received;
2. The formulation of a draft community consultation policy and procedure manual and training in their use be commissioned in the terms outlined in this report and a consultant be engaged to assist the organisation in this process;
3. Community involvement in the policy and manual development process be pursued;
4. Community views on Council's consultation practices be included as a topic in the Customer Service Survey planned to be conducted in early 2003;
5. A training plan to effectively implement the policy and procedures be developed as part of the project.



## **APPENDIX 1 – Outline of content of consultant's brief**

Consultant be engaged to:

1. Facilitate the development of, and produce, a Draft Community Consultation Policy including the following elements:
  - Policy objectives, including the meeting of legal obligations under various legislation and community obligations under Council's Strategic and Management Plans;
  - Principles underpinning the policy including commitment to consultation, feedback, responsibility of departments to consult, etc;
  - Defining what 'community' means to Council;
  - Defining what 'consultation' means to Council;
  - Defining the levels of consultation that Council will engage in, including specifying the nature of the decision making process for each level;
  - Setting criteria for determining what purposes/issues require consultation, including legal responsibilities;
  - Defining the appropriate level of consultation required for identified purposes/issues;
  - Outlining other factors that will affect consultation, including linkage to other relevant Council policies, (e.g. Access and equity policy, Negotiation and consensus policy, Customer service charter), resource availability etc;
  - Linkage to consultation manual and the methods of consultation to be employed.
2. Produce procedure manual (print and digital format) for consultation processes including:
  - Linkage to the policy;
  - Generic consultation project planning outline/checklist;
  - Guidelines for matching appropriate consultation methods to consultation objectives/purposes;
  - Planning guidelines/instructions/checklists for conducting all relevant methods of community consultation including access and equity considerations when consulting for the seven (7) designated target groups;
  - Document templates to assist implementation of all relevant consultation methods in preconsultation, consultation and post consultation processes, including a template for a consultant research brief outline;
  - Specification of all statutory requirements for consultation.

The process of developing the policy and manual to include input from Council, the organisation and the community.
3. Provide a training plan and direct training in the use and implementation of the policy and manual to all relevant staff involved in community consultation.

## **APPENDIX 2 – Definitions of “Community consultation”**

The following definitions in use by other relevant organisations are provided to inform Council's considerations of these issues.

### **Engagement**

Engagement is achieved when the community is and feels part of the overall governance of that community. It is informed, connected and feels it has a role to play. Activities that can be part of engagement are:

- gathering and provision of information;
- consultation;
- participation.

Councils should be committed to ensuring that all groups have an equal opportunity to participate and be involved and should take active steps to ensure that traditionally marginalised groups have the opportunity to participate and be engaged. Councils that work at engaging their communities through ongoing activities and policies (for example, festivals, 'know your parks', etc.) create an environment in which more effective consultation can occur.

Engagement, by this definition is more of an outcome. It occurs when there is good ongoing information flow, consultation and participation between a council and its community. Consultation can, therefore, be seen as part of the overall concept of engagement. Community engagement is a characteristic of democratic governance.

(Community Consultation Resource Guide, Victorian Local Government Association, 2001)

### **Participation**

Participation means that the community is involved in governance activities.

(Community Consultation Resource Guide, Victorian Local Government Association, 2001)

### **Consultation**

The process of informed communication between the council and the community on an issue prior to the council making a decision or determining a direction on that issue.

Key elements:

- It is a process, not an outcome;
- It recognises the council has the mandate to be the decision-maker and refers to the process by which the authority gathers information in order to make a decision. Consultation impacts on a decision through influence, rather than power;
- It also recognises that it is up to each council to decide what issues it will consult on;
- The definitions both stress the point that consultation is about input into decision-making, not joint decision making or decision-making by referendum.

(Community Consultation Resource Guide, Victorian Local Government Association, 2001)

“Consultation is an important process to ensure Council is informed about how it serves its community, the ratepayers and residents of Newcastle. Effective consultation is good business, good management and good government. It is good business because it enhances the quality of services provided by Council. It is good management because it works to achieve better results for everyone, Council and the community. It is good government because it aims to better meet community needs and provides customers with ways to exercise their right to participate in the process of setting directions and priorities.

Consultation is about actively seeking views from the community. This involves asking, listening and sharing ideas, knowledge, and experience.”

(Newcastle City Council Consultation Policy and Guidelines, 1998)

“Consultation is a genuine exchange of information and points of view;

Consultation is undertaken prior to decisions being made;

Consultation brings technical advisers and residents together and helps people find the best solutions;

Consultation fosters active participation by the community;

Consultation allows fair and informed decision-making.

Consultation will not:

Always bring agreement;

Make everybody happy with a decision.

Consultation is not a substitute for decision making.”

(Sutherland Shire Council Community Consultation Policy, 1996)

Consultation is a central principle in sound planning and decision making. It allows government to make informed decisions about issues that affect citizens. The consultation process aims to maximise opportunities for citizens to be informed, and to have their concerns heard and taken into account, before a decision is made by government. It involves methods that range from information sharing through to participatory decision making, and which ensure government is aware of the views of citizens affected by any decision or policy change.

(ACT Consultation Protocol, 2001)

There are a number of issues around the precise definition and meaning of terms such as *community consultation* and *community participation* and *consumer* and *community* as they are often used interchangeably. However there is a technical difference in the meaning of the terms and it is generally agreed that:

- A *community* is a group of residents who are brought together as a result of their geographical location, ethnicity, age group, disability, need for services or some other characteristic.
- Health *consumers* are users of health services.
- *Participation* is when community or consumers are actively involved in the decision making process
- *Consultation* is a process where individuals or groups have an opportunity to influence the outcome of a policy or the decision making process.

(Western Sydney Area Health Service Community Consultation Policy, 1998)

Consultation is a central principle in sound planning and decision making. It allows local government to make informed decisions about issues that affect the community. The consultation process aims to maximise opportunities for citizens to be informed, and to have their concerns heard and taken into account, before a decision is made by Council. It involves methods that range from information sharing through to participatory decision making, and which ensure local government is aware of the views of residents affected by any decision or policy change.

(Consultation Manual, Alice Springs Town Council, no date)

Community consultation is a non-adversarial interface between governments and citizens where information and feedback is obtained in a non-threatening environment. On the one hand, policy makers have the opportunity to structure discussions about a policy proposal so as to gain useful and pertinent input from potentially affected parties. On the other, the consultative process improves the community's understanding of a project, its objectives and likely impacts.

(Brisbane City Council Community Consultation Report, no date)

In this policy, public consultation refers to a process or processes implemented by Council to facilitate discussion and communication between the Council, the community of Prospect and the directly affected stakeholders in the planning, determination and evaluation of policy, programs and services provided to the Prospect community.

(Community Consultation Policy Manual, City of Prospect, SA, 2000)

## **Council's Operating Environment**

### **8 Corporate Annual Report**

**10/46**

**Compiled by:** Peter Huxley, Executive Officer

**Authorised by:** Steve Hackett, Director - City Services

**Management Plan 4 Year Outcome (Page 108):** *Effective corporate governance has been maintained.*

**02/03 Critical Action:** *Ensure statutory obligations are performed and observed or responded to appropriately.*

#### **Purpose:**

*To seek Council's endorsement for the Corporate Annual Report prior to it being submitted to the Department of Local Government.*

#### **Background**

The Local Government Act requires a Council to report to the Minister for Local Government, within 5 months after the end of each year, as to its achievements with respect to the objectives and performance targets set out in its management plan for that year.

#### **Current Situation**

In essence, the Annual Report is a restatement of the end of year Management Plan and contains a full copy of Council's audited financial statements as well as additional information about a number of prescribed matters.

Because Council considered and adopted the Financial Statements at its meeting on 11 November 2002, they are not reprinted as part of the Annual Report document for discussion at tonight's meeting. The statements will, however, be in the Annual Report that is forwarded to the Minister.

#### **RECOMMENDATION**

That the draft Corporate Annual Report be endorsed and forwarded to the Minister for Local Government via the Department of Local Government.



## Council's Operating Environment

### 9 Financial Health Check

6035/17

**Compiled by:** Andrew Moore, Expenditure Officer and Vicki O'Kelly, Senior Financial Accountant

**Authorised by:** Barry Husking, Chief Financial officer

**Management Plan 4 Year Outcome (Page 113):** *Maintain a sound financial position and liquidity.*

**02/03 Critical Action:** *Ensure the timely provision of financial advice and information to support Council's decision making processes.*

#### **Purpose:**

*The purpose of this report is to introduce a series of local government financial indicators, including the Local Government Financial Health Check, present the results for Penrith City Council against these indicators and to recommend a process, involving the Finance Working Party, for determining the indicators which are appropriate for inclusion in Council's Management Plan. A presentation will be made to the Policy Review Committee.*

#### **Background**

In today's economic and political climate the importance of financial indicators that give insight into the financial health of an organisation and warnings of areas or trends of potential concern cannot be over estimated.

Key financial health issues include; the ability to meet obligations as they fall due, the ability to provide and to continue to provide the level and range of services expected of a modern local government authority, the level of discretionary funds available, debt levels and debt coverage ratios and asset condition monitoring.

It may be that robust financial condition is not an indicator that a Council is providing the appropriate range or level of services to its ratepayers and residents. Indeed, the financial health of a Council is important only to the extent that its lack does not prevent the Council from providing appropriate services on an ongoing basis into the future. A company providing financial services to local government, DG and AB Maxwell, suggest that "in providing the maximum services for the lowest practicable cost, a Council should always be on the brink of financial ill-health."

As previously reported to the May Policy Review Committee Meeting a recent initiative of the Local Government Managers Association is the development of a set of financial indicators called the Local Government Financial Health Check.

Whilst the LGMA Financial Healthcheck recognises the need for increased levels and quality of financial information and attempts to provide a range of indicators which it considers of value we should not be reliant on these indicators only. It may be of more benefit to incorporate the LGMA Financial Healthcheck with a range of other relevant indicators to give a more comprehensive view of the financial health of Council.

DG and AB Maxwell have further developed the LGMA framework and offer some supplementary indicators and some of these are incorporated in this report. They believe that

the indicators should be used for trend analysis within a Council rather than as a basis for comparison between Councils. Where the value of a particular indicator for a Council is significantly outside the recommended range, the reasons for this occurrence should be reviewed, rather than assuming that the Council is in financial ill-health. There may be specific circumstances attaching to a particular Council that make the recommended range inappropriate.

Other indicators used may include some of the Standard and Poors Local Government "Creditstats", Australian Bureau of Statistics data, the NSW Department of Local Government comparative data, together with the financial ratios that are currently included in the Annual Financial Statements. More discussion and the results of these individual indicators are included in the attachment.

## **Current Situation**

### **LGMA Financial Health Check**

The LGMA Financial Health Check brings together some of the traditional financial indicators currently reported in the Annual Statements with other more topical issues such as asset renewal versus asset maintenance.

This was developed after consultation with the Minister, and in concert with the Department of Local Government and the Local Government and Shires Association. A working party was established made up of a diverse group of finance professionals and practicing General Managers to develop a set of Financial Indicators that endeavour to concisely and consistently show Councils the state of their financial health. It is intended that these indicators can be readily understood and interpreted by Councillors and Managers, whether or not they have a financial background.

Councils are categorised into either Developing/Growing Councils, requiring significant resources and funding to conduct and achieve the growth that is expected from them, or Developed/Maintenance Councils, that don't have the same demands but need to maintain existing infrastructure without the growth revenue that has in the past funded their operations. The importance of the relevant indicator and the relative rating or level of the indicator depends on the appropriate categorisation of the Council. Penrith City Council has been assessed as developing. This categorisation will assist in benchmarking between councils.

A presentation of Penrith City Council's assessment using the LGMA Financial Health Check will be made to the Policy Review Committee.

### **DG and AB Maxwell Supplementary Indicators**

The main areas that DG and AB Maxwell have developed indicators for include revenue sources and operating expenditures, cash, liquidity, debt and inter-generational equity, cash generation, asset condition management, uncompleted works and employees and entitlements.

### **Standard and Poors**

The Standard and Poors Australian Local Government "Creditstats" for 2002 is a survey of 91 major local governments in Australia including Penrith City Council. The results from this survey are purely for comparative purposes. Some of the more pertinent indicators relate to the area of debt and debt servicing.

### **DLG Comparative Statistics**

The data for the key performance indicators survey is collected by an electronic survey of councils linked to their audited 2000/01 financial reporting timeframe. Other data was collected by the Department's rating return/statement of compliance and the Grants Commission's general information data collection. The sources of the data include council financial reports, rating records, library circulation records, DA registers and tracking systems, weighbridge dockets for domestic waste and recyclables, sewerage and water service assessment records, ABS population statistics and EPA statistics. The data for the 2000-2001 year was released in September 2002 so the value of the indicators in predicting or highlighting risk areas is limited. However it is a good source of historical comparative data for a wide range of areas.

None of these indicators have been included in the appendix due to their lack of currency however they may be used for further historical trend analysis in areas of potential concern.

### **Alternative Working Funds Position**

Council staff have developed an amended version of the old "working funds" result that many were familiar with prior to 1993 and the introduction of accrual accounting. The amended formula aims to provide a timely and 'real' measure of current liquidity.

### **Indicators**

Where possible all indicators reflect a trend analysis based on five financial years, generally including the current year results, three prior year results and a projection for 2002-2003 where appropriate.

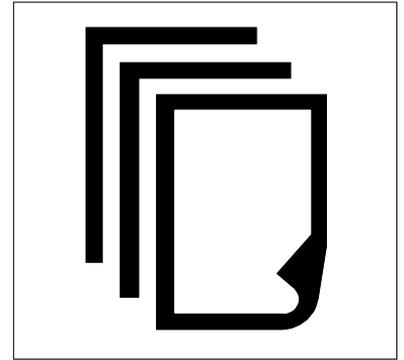
Discussion and explanation of both the indicators and their results is included in the accompanying document. To allow for further in depth discussion of these indicators it is proposed that this report be referred to the Finance Working Party.

### **RECOMMENDATION**

That the information on financial indicators be referred to the Finance Working Party for further discussion.



# ATTACHMENT



**Date of Meeting:** 25 November 2002

**Master Programme:** Council's Operating Environment

**Programme:** Finance

**Report Title:** FINANCIAL HEALTH CHECK

# Financial Indicators

## Introduction

A number of financial indicators are presented below. These are derived from a variety of sources both local government and commercial. The results have been calculated following the completion of the 2001/02 Financial Statements and in most instances include the data for the preceding four years.

### 1. Revenue Sources

The Revenue Sources, before capital indicator, provides the opportunity to understand and track the relative sources of revenue received by Penrith City Council. Monitoring this indicator will enable Council to better measure and assess the degree of dependency on particular revenue sources. The stability of any 'over dependant' revenue source should be considered. A further dissection of the above information is available in Note 4 of Council's Financial Statements. The percentages of each type of revenue should broadly be consistent from year to year, one-off aberrations should easily be explained from specific Council decisions. Surplus on Disposal of Assets, in many cases, reflects an adjustment to the depreciation charges that have been made over the life of assets owned by Council, and we believe should be excluded from these calculations. However as the below tables shows, beyond 1999/00 these amounts have been insignificant for PCC.

	97/98		98/99		99/00		00/01		01/02	
	\$M	%								
♦ <i>Rates and Charges</i>										
- <i>General Purpose</i>	35.7	45.8	37.4	46.3	39.3	42.9	40.9	43.4	42.5	43.0
- <i>Specific Purpose (DWM)</i>	9.1	11.7	9.7	12.0	10.4	11.3	11.3	12.0	12.9	13.0
♦ <i>User Charges and Fees</i>	17.6	22.6	17.2	21.3	20.3	22.2	20.5	21.8	23.6	23.9
♦ <i>Interest</i>	2.0	2.6	2.2	2.7	2.7	2.9	3.7	3.9	3.1	3.1
♦ <i>Grants [Operating]</i>										
- <i>General Purpose</i>	9.3	11.9	9.4	11.6	9.4	10.2	8.7	9.3	9.2	9.3
- <i>Specific Purpose (DWM)</i>	2.5	3.2	2.8	3.5	2.6	2.8	4.8	5.1	5.7	5.8
♦ <i>Contributions</i>	0.3	0.4	0.7	0.9	1.2	1.3	0.7	0.7	0.9	0.9
♦ <i>Profit on Sales of Assets</i>	-	-	0.2	0.2	4.6	5.0	1.5	1.6	-	-
♦ <i>Other</i>	1.4	1.8	1.1	1.5	1.3	1.4	2.1	2.2	1.0	1.0
= <b>Total Ordinary Revenue before Capital</b>	77.9	100	80.7	100	91.8	100	94.2	100	98.9	100
<b>RAG's (Maxwell)</b>	54.3	70.5	57.0	70.6	59.9	65.3	64.2	68.2	75.0	75.8

**Comment :** Revenue from charges imposed on the community constitutes 79.9% of PCC revenue. Given the nature of these charges this revenue stream is considered secure and sustainable in the long term. Over the last five years there has been very little change to the proportional make up of total revenue.

DG and AB Maxwell advocate using the discretionary revenues of Council as the most appropriate measurement of Revenue sources. These discretionary revenues include Rates (including special rates), Annual Charges and Untied Grants (RAGs). They argue that using RAGs as a basis to compare both other sources of revenue and also expenses creates a more meaningful comparison.

**Other Revenues in relation to R.A.G.s**

Fees & Other Charges tend to have associated costs attributable to them and do not represent "clear profit" that can be used to achieve Council's objectives. In other respects they tend to be reliable, consistent sources of income, except where they are sourced from other levels of government.

Specific Purpose payments from other levels of government tend to be more volatile and to reflect the changing political objectives of those other levels of government. In every case, Council is committed to expenditure for the stated purpose at least equal to the revenue received. The timing of receipts of Section 94 Contributions is determined by factors outside Council's control, and should be analysed as a separate component.

The percentages of each type of revenue will probably show far greater volatility from year to year, and will require more detailed analysis to identify the specific events that influenced changes.

	<i>98/99</i>		<i>99/00</i>		<i>00/01</i>		<i>01/02</i>	
	<i>\$M</i>	<i>%</i>	<i>\$M</i>	<i>%</i>	<i>\$M</i>	<i>%</i>	<i>\$M</i>	<i>%</i>
♦ <i>Fees</i>	7.6	13.3	9.9	16.5	9.2	14.3	<b>10.8</b>	<b>14.4</b>
♦ <i>Interest</i>	2.2	3.9	2.7	4.5	3.7	5.7	<b>3.1</b>	<b>4.1</b>
♦ <i>Contributions</i>	0.7	0.9	1.2	2.0	0.7	1.1	<b>0.9</b>	<b>1.2</b>
♦ <i>Profit on Sales of Assets</i>	0.2	0.2	4.6	7.7	1.5	2.3	-	-
♦ <i>Other</i>	1.1	1.5	1.3	2.2	2.1	3.4	<b>1.0</b>	<b>1.3</b>
<b>RAG's (Maxwell)</b>	<b>57.0</b>	<b>100</b>	<b>59.9</b>	<b>100</b>	<b>64.2</b>	<b>100</b>	<b>75.0</b>	<b>100</b>

**Comment:** All movements are considered acceptable. Given that the revenue sources being examined collectively represent 15% of total revenues a 1-2% movement against RAG's (75% of total revenue) is considered immaterial or insignificant.

## 2. Cash/Liquidity Position (after accounting for external reserves)

Cash and cash management is vital for the short and long term survival and good management of any business: local government, with its restricted and limited sources of income is no different. The normal business cycle necessitates businesses meeting their current obligations or liabilities from current assets, which can and will be converted into cash in time to meet these obligations. Therefore for these reasons it is important to consider, measure and monitor Council's performance in this area.

	98/99	99/00	00/01	01/02	02/03
<b>2.1 Unrestricted Current Ratio</b>	1.69:1	1.91:1	2.05:1	<b>1.65:1</b>	1.79:1
<b>2.2 Available Cash Position</b>					
▪ Available Cash Assets (\$'000)	17,030	23,876	31,606	<b>28,182</b>	24,221
▪ Unrestricted Available Cash Assets (\$'000)	5,466	5,353	7,626	<b>9,108</b>	12,629
▪ Working Surplus (\$'000) – Consolidated				<b>318</b>	
▪ Working Surplus (\$'000) – PCC only				<b>(897)</b>	
<b>2.3 Availability of Cash Assets as a % of total revenue</b>					
▪ Available Cash Assets	19.84	25.84	33.56	<b>28.50</b>	23.34
▪ Unrestricted Available Cash Assets	6.37	5.79	8.10	<b>9.21</b>	12.17

### SCALE

**Unrestricted Current Ratio**                      <1.1 = Red              1.1 to 2.1 = Amber              Over 2.1 = Green

The **Unrestricted Current Ratio** aims to measure Councils liquidity and more importantly Councils solvency. This indicator enables Council to assess whether debts will be able to be paid as they fall due or should arrangements be put in place to raise additional funds or liquidate assets.

**Available Cash Assets** are defined as total cash assets held by Council less any externally restricted Assets. Sections 2.2 and 2.3 present the available Cash assets as a dollar value and percentage of total revenue respectively. This indicator is produced to enable users to better assess the Unrestricted Cash Ratio and the impact of unforeseen commitments.

**Unrestricted Available Cash Assets** takes the above one step further and subtracts both external and internal restrictions from the total cash assets held. Again sections 2.2 and 2.3 display the result in dollar terms and as a percentage. This indicator highlights Cash Assets that are completely free of usage restriction and is similar to 'working funds'. Like the Available Cash Assets indicator the Unrestricted Available Cash Assets indicator is used as a guide to interpreting and better understanding the Unrestricted Current Ratio.

**Working Surplus** is a hybrid of the traditional 'Working Funds' indicator. The following formula is used:

$$\begin{aligned} \text{Working Surplus} &= \text{Total Unrestricted Cash Assets \& Investments} \\ &+ \text{Current Unrestricted Receivables} \end{aligned}$$

- *Current Payables*
- *Provisions*

The working surplus indicator is a tool designed to enable Council and management to actively monitor Council's liquidity. This indicator highlights the level of funds available. It is proposed that a \$2m minimum balance would be an appropriate target. The target should be set after consideration is given to establishing a surplus liquidity target consistent with responsible financial management practices.

**Comment:** The current year Unrestricted Current Ratio of 1.65:1 achieves a rating of Amber. The five year comparative analysis highlights that a close to green rating has been consistently obtained over the past four years with this trend expected to continue into 2002-2003.

### 3. Operating Result

Profitability is normally regarded as an important performance indicator and this is no less the case from an overall Financial Health Check position. Trend analysis of **Operating Results** enables Council to determine if the current level of services can be sustained in the future. Successive negative results suggest a review of Councils strategic directions may be required.

	97/98	98/99	99/00	00/01	<b>01/02</b>	02/03
<b>Result from ordinary operations before Capital Grants and Contributions</b>	(4,761)	(5,172)	(503)	(2,427)	<b>(5,219)</b>	(5,327)

**Comment:** While conceding that negative results have successively been obtained it is important to consider that PCC is still a developing Council. The guidelines for this indicator do not call for a distinction to be made between developed and developing Councils and therefore suggest a poor result. However given the stage of development and debt servicing capabilities of PCC demonstrated by Indicator 5 the above result is not considered severe. It is acknowledged though that a long-term continuation of this trend would require serious attention.

## 4. Asset Management

This series of measures is intended to reflect the extent to which a council is maintaining the condition of its assets, either through repairs and maintenance or the adequacy of its provision to replace those assets as they become due, as a financial charge for the use of those assets. Assessing these ratios together establishes the nexus between the physical and financial management of Council's assets over the longer term.

	98/99	99/00	00/01	01/02	02/03
<i>a. Asset Renewal</i>				<b>0.25:1</b>	0.23:1
<i>b. Maintenance / Maintenance Required</i>	0.51:1	0.49:1	0.60:1	<b>0.65:1</b>	
<i>c. Asset Life Position (%)</i>	7	9	9.25	<b>11</b>	12.7
<i>d. Asset Value per capita</i>	4,314.38	4,409.53	4,427.22	<b>4,396.23</b>	

### SCALE

**Asset Renewal**    1:1 = Green                      Less than 1:1 = Red  
**Asset Maintenance**    1:1 = Green                      Less than 1:1 = Red  
**Asset Value**                      **Three years of consecutive growth = Green**  
    **Three years stability +/- 1%                      = Amber**  
    **Three years of consecutive decline = Red**

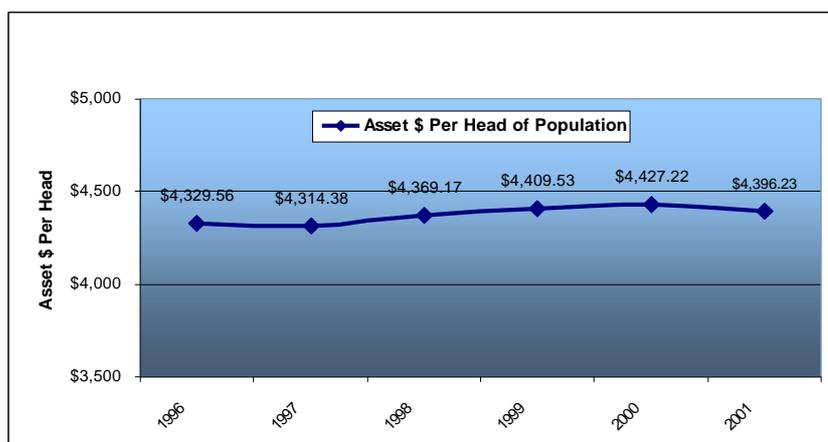
**Asset Renewal** is a ratio of funds spent renewing assets to annual depreciation of assets. This ratio allows an insight into the condition and cost to maintain public infrastructure assets.

**Asset Maintenance** is a comparison of the amount of funds spent on maintenance compared to the amount of funds required to maintain.

**Asset Life Position** shows the average life years of assets used to date as a percentage and is calculated by comparing Accumulated Depreciation and Total Depreciable Asset Value.

**Asset Value per capita** aims to show the level of infrastructure being provided relative to population.

**Comment:** Both Asset Renewal and Asset Maintenance indicators have scored a rating of Red. Both indicators are measuring the amount of funds spent compared to the amount required to be spent to ensure that Councils existing assets remain at an acceptable standard. Council is aware of the ongoing need to increase levels of expenditure on maintaining the condition of assets. The Asset Maintenance indicator has improved over the past three years. There may also be some opportunity to examine the methodologies used in establishing the value of the maintenance required. It may be that we are overstating the magnitude of the maintenance required in the light of emerging technologies, techniques and processes that may well result in much lower than anticipated maintenance costs.



## 5. Debtor Management

Both the Outstanding Rates, Charges and Fees, and Other Debtors Outstanding indicators reflect Councils ability to collect debts that are legally owed to it. Given the unique nature of each Local Government area it is difficult to benchmark and thus rate these indicators across Councils leaving them to be best used in trend analysis. An additional indicator may more accurately reflect the collectability of Rates Outstanding by excluding the pensioner debt which is deferred until transfer of ownership of the property.

### SCALE

**Outstanding Rates** <5% = Green 5-7% = Amber > 7% = Red  
**O/Rates ex pensioners** <5% = Green 5-7% = Amber > 7% = Red  
**Other Debtors** <10% = Green 10-15% = Amber >15% = Red

or any value consistently increasing for 3 consecutive years RED (Maxwell)

	98/99	99/00	00/01	01/02	02/03
<b>5.1 Outstanding Rates, Charges &amp; Fees (%)</b>	4.16	4.20	5.41	<b>5.30</b>	
<b>5.2 Outstanding Rates, Charges &amp; Fees – Excluding pensioners (%)</b>	TBA	TBA	TBA	<b>TBA</b>	<b>TBA</b>
<b>5.3 Other Debtors Outstanding (%)</b>	3.15	4.43	4.61	<b>5.34</b>	

**Comment:** The Outstanding Rates, Charges & Fees Ratio has been measured as an amber indicator. Other Debtors outstanding is 5.34% and whilst this is within the green indicator range it has increased over the past three years and is thus a red indicator and bears watching. Council is in the process of trialing a new Debt Recovery Module and it is anticipated that over the next twelve months there will be a significant reduction in these percentages. Another aspect to take into consideration is the actual timing of this raising of the debtor. Raising of or payment for a large debt at year-end may distort the ratio.

## 6. Debt

The **Debt Service Ratio** shows what proportion of revenue is required as a commitment to fund Council's long term capacity to repay loans. Over the past 5 years Penrith City Council's additional annual borrowings have decreased from \$3.55m to \$2.8m per annum. Council continues to support the principle of borrowing to fund income producing or self funding projects such as Domestic Waste Management, Penrith Whitewater Stadium, and the Hydrotherapy Centre

	98/99	99/00	00/01	01/02	02/03
<b>Debt Service Ratio (%)</b>	12.21	11.49	11.22	<b>10.95</b>	10.15

### SCALE

<15% = Green 15-20% = Amber

>20% = Red

**Comment:** The Debt Service Ratio has achieved a green rating for the 4<sup>th</sup> year in a row and the projections for next year continue this trend. Council is continuing its policy to reduce debt levels. If Council has a loan reduction program in place, proportionate borrowing costs should steadily reduce (except in the years in which voluntary loan repayments are made). The savings begin achieved by PCC on debt servicing costs are currently allocated to a reserve for future road maintenance.

## 7. Employees and Entitlements

Employees are, of course, the key to any business. Financial indicators like these cannot measure the important things like morale, teamwork and efficiency. As employee costs are a significant part of any council's operating expenditure it is important to monitor both total employee costs as a percentage of RAGs and average employee costs.

### Employee Numbers

This information is supplied in the appendix for trend analysis only. The particular characteristics of each Council, its population and its distribution and the services and facilities that they supply are unique, and make this indicator unsuitable for comparison between Councils.

	97/98	98/99	99/00	00/01	01/02
<b>Employees</b>	795	797	801	882	929

Employee numbers were not collected for the Financial Statements for the years 98/99, 99/00 and 00/01.

### Employee Costs

Experience in recent years has indicated that average employee costs per employee have increased rather faster than award rate increases as additional OH&S requirements, superannuation contributions and workers compensation costs have exerted their influence. The relative proportions of managers to line staff has a significant effect on the average value and renders it unsuitable for inter-Council comparisons, but the year on year increase accurately reflects budgetary pressures and provides an interesting comparison with the increase in R.A.G.s revenue.

### Wages % to R.A.G.s

Wages as a percentage of discretionary revenues returns a value that is remarkably consistent across nearly 90% of Councils throughout the State. A value outside the most common range may indicate that Council is applying policies that other Councils consider to be inappropriate.

The most common value is between 55% and 75%. If a Council's percentage is greater than this, it is more vulnerable to the volatilities in the other sources of revenues. Amounts from government are regarded as particularly volatile because they are heavily influenced by changes in political objectives. Rapid reductions in any source could lead to forced redundancies.

	98/99	99/00	00/01	01/02	02/03
<b>Wages % to RAG's</b>	63	66	62	60	63
<b>Wages % to RAG's (excl C Care)</b>	49	51	54	52	51

**Comments:** Although employee numbers have increased this is not considered a negative indication given Council's level of development. Council's current wages as a % of RAG's is approximately 60% and is therefore considered a positive result. The exclusion of Child Care costs on the basis that PCC's Child Care operations are self funding reduces this indicator further to 52%.

### Employee Leave

A basic tenant of the internal control structure is that there is a strong correlation between the failure to require staff to take leave as and when it falls due and the perpetration of frauds. The active management of leave balances by Council aims to mitigate Councils' exposure to this type of risk. The information contained within the annual statements makes it possible to make an approximate calculation of the actual leave taken and to compare it with the cost of new entitlements. The calculation can be influenced by changes in award entitlements, staff promotions and the interest rates applied to estimated future payments, and accordingly comparison of the indicator on a year by year basis must be carefully analysed - things may not be quite what they seem on the surface. Another method of assessing this is by comparison of the average value of untaken entitlements per employee, which must be used with similar care.

### Reserve for E.L.E.

DG and AB Maxwell have taken into consideration the following when deriving the indicated values

- \* cash requirements for anticipated ELE payments are specifically estimated in the preparation of the budget.
- \* even in the event of amalgamations, continued employment of line staff is usually guaranteed for at least sufficient period to permit special accumulation of cash resources for redundancies. (This does not apply to executive staff.)
- \* specific cash reserves for ELE prevent use of those cash resources for other Council purposes.
- \* a sufficient level of Available Non-External Funds can provide sufficient flexibility to obviate the need for special reservation of cash for ELE.

For these reasons, they have declined to nominate any RED traffic lights values - in every instance, the value must be further evaluated in the specific circumstances of each Council. In relation to values in excess of 20%, the indicator is suggesting that the Council could be utilising its resources more effectively to maximise the provision of services and facilities to ratepayers and residents.

	98/99	99/00	00/01	01/02	02/03
<b>Leave Paid / Leave Accrued</b>	100%	79%	79%	73%	
<b>Untaken Leave per employee (\$)</b>	19,000	21,000	22,000	23,000	
<b>ELE Reserve (%)</b>	16%	16%	18%	18%	

### SCALE

Percentage Leave Paid <80% 80%<<95% AMBER >95% GREEN  
AMBER values in 3 consecutive years RED

Untaken Leave per Employee (\$'000) increases in 3 consecutive years AMBER

Reserve for E.L.E. <10% AMBER 10%<<20% GREEN >20% AMBER

**Comments:** Managers are all aware of the need to reduce the amount and days of untaken leave and the positive steps being taken to address this issue should see considerable future improvement in this indicator. It is worth noting that the rate of increase in the value of untaken leave per employee remains less than the percentage increase in wages.

In addition to the above Maxwell indicator Penrith City Council has a current policy to maintain an ELE reserve at or above 20% for all sick leave, gratuities and long service leave. This ratio is currently 21 %.

## 8. Re-votes of Expenditures

It is important that Councils properly budget for and manage the resources that are available to fulfil its management plans. The existence and use of re-votes, which if not incorporated into the formal planning and budgeting cycle can be misused and is an indicator of poor management and/or abuse.

It is important that council management and governance consider the impact and existence of re-votes as a formal management issue, which is addressed as part of its formal planning processes. Management and

authorisation of re-votes is one of those contentious areas that needs to be managed between governance and management

*What % are your total re-votes of expenditure compared to total annual expenditure?*

*Less than 2%*

*Between 2 and 5%*

*Greater than 5%*



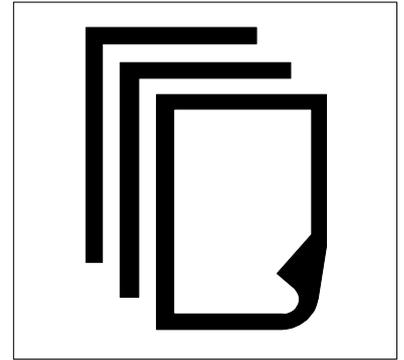
**Comments:** Although Council's re-votes have fallen considerably this year they were still well above 5% and therefore have achieved a red signal. The introduction of phasing to the budget process will ensure improvements are made on this indicator. It aims to better identify the capacity of PCC to complete large projects and may include design in one year followed by construction in the following and budgeted accordingly therefore avoiding the need to revote.

## 9. Accuracy/Timeliness of Financial Data/Budget/Compliance

Local government Councils are very significant business and trading enterprises. They are financially and operationally managing very significant assets, earning sizeable revenues and incurring significant expenses. They also employ significant resources and personnel. As in any commercial enterprises, good business management practices dictate that the business undertake formal planning and budgeting functions and that management and the elected corporate governance representatives receive regular up to date financial information and reports. This indicator assess Council's history in doing so.

- *Financial Bottom Line (before capital) matched to forecasts to a level of + or - 10%*  YES/ NO
- *Receipt of an unqualified audit reports*  YES/ NO
- *Statements lodged to meet compliance deadline*  YES/ NO
- *Timeliness of results and reporting to management and statutory authorities*
  - *Do you report monthly to management – within 5 days of month end*  
*\* Please note that the above indicator is available online in real time*  YES\*/ NO
  - *Do you report quarterly statutory – within 21 days of quarter end*  
*(Reporting is within statutory timeframes)*  YES/ NO
  - *Do you report annual statutory – within 21 days of year end*  
*(Reporting is within statutory timeframes)*  YES/ NO
- *Budgets incorporate a 3 year plan where the 2<sup>nd</sup> year becomes the base for the following year*  YES/ NO
- *Rigour of budget review and then ongoing monthly / quarterly budget to actual results analysis*  YES/ NO
- *Does RAO (Responsible Accounting Officer) formally report to Council on the sign off of Financial Statements – Section 413*  YES/ NO

# ATTACHMENT



**Date of Meeting:** 25 November 2002

**Master Programme:** The City in its Environment

**Programme:** Heritage

**Report Title:** **DRAFT HERITAGE  
MANAGEMENT DEVELOPMENT  
CONTROL PLAN**

---

## The City in Its Environment

### 6 Draft Heritage Management Development Control Plan

4122/20 Pt 2

Compiled by: Terry Agar, Senior Environmental Planner

Authorised by: Roger Nethercote, Environmental Planning Manager

**Management Plan 4 Year Outcome (Page 37):** *The City's cultural and environmental heritage values are appreciated and conserved by the community.*  
**02/03 Critical Action:** *Review the effectiveness of Council's Heritage Policies and responses.*

#### Purpose:

*This report advises council of the public submissions received during the exhibition of the draft Heritage Management DCP and proposed amendments to the document. The report recommends adoption of the amended plan.*

#### Background

The purpose and content of the DCP was reported in detail to Council on 4 February 2002 prior to its exhibition. Briefly, the DCP does the following things:

- Allows for the identification of potential places of heritage significance by the community;
- Formalises the existing Council policy requiring the submission of a Statement of Heritage Impact with development applications affecting heritage places;
- Provides a range of incentives to applicants to conserve heritage places by refunding a range of Council development fees upon compliance with development consent conditions; and
- Requires the submission of standard archival recording of heritage places as a condition of development consent.

The draft Heritage Management Development Control Plan ("the DCP") was exhibited from 19 February 2002 until 22 March 2002. All owners of properties listed as heritage items or forming part of a heritage conservation area subject to the DCP, were individually notified by letter about the exhibition.

#### Submissions Received

Twelve submissions were received during the exhibition period from both individuals and community groups. A list of the submitters is provided in Appendix 1. A wide range of issues was raised and many amendments were suggested. Many of the submissions supported the DCP.

#### Comments on Key Issues

Issues raised in the submissions directly concerning the proposed operation of the DCP have been grouped in the following headings. The issues are briefly described and planning

comments provided. Specific recommendations, which address the issue, have also been made.

The recommendations have been incorporated into an amended DCP included in the Attachments.

#### *Objectives*

Planning NSW suggested the inclusion of another objective in the DCP: “To ensure that proposals for development of environmental heritage are sustainable and appropriate to the significance of the heritage asset”.

Comment: One of the purposes of the DCP is to conserve the significance of heritage places. An important way of achieving this is to ensure that a place is used in an appropriate way that conserves its values.

The DCP has been amended to include the objective quoted above.

#### *Assessment of “Potential Places of Heritage Significance”*

An inconsistency exists between the requirement for a Statement of Heritage Impact for Potential Places of Heritage Significance and the need to establish the heritage significance of a place. If the place has been determined to have insufficient heritage significance a Statement of Heritage Impact should not be required.

Comment: The draft DCP requires a Statement of Heritage Impact to be lodged with a development application for Potential Places of Heritage Significance. This pre-supposes that the heritage significance of the place has been formally established. The DCP should clearly require the heritage significance of the place be determined before requiring a Statement of Heritage Impact to be prepared. Obviously, if the heritage significance of a place cannot be clearly established the requirement for a Heritage Impact Statement is not warranted.

The draft DCP has been amended to remove the inconsistency described above.

#### *Removal from the Potential Place of Heritage Significance List*

A process does not exist in the DCP for the removal of a property from the Potential Place of Heritage Significance List.

Comment: It is considered reasonable that a process for the removal of place from the list is incorporated into the DCP. Accordingly, a new clause has been incorporated into the draft DCP to achieve this end.

#### *Historic Subdivision Definition*

The term “historic subdivision” used in clause 22(a)(v) could refer to all past subdivisions of the land and not just those of particular heritage significance in the evolution of the site.

Comment: It is considered appropriate to narrow the definition and interpretation of the term and focus on the subdivision of heritage significance to avoid confusion. The term “significant subdivision pattern” is preferable.

The draft DCP has been amended to include this improved definition.

#### *Protection of Views of Heritage Items*

Two submissions suggested that views and vantage points to heritage items could be protected, by listing them as Potential Places of Heritage Significance.

Comment: Whilst the principle of protecting views of heritage items has merit, the issue would be more appropriately dealt with by incorporating special provisions into the DCP

rather than defining views as Potential Places of Heritage Significance. It is envisaged that such provisions would define what the view or vantage point is, and include a schedule which maps the view lines/shed of a heritage item and the properties subject to it.

It is considered that the incorporation of new provisions relating to views would be a substantial departure from the exhibited DCP. It is not recommended that a new provision be inserted at this stage. This would require significant additional research and mapping to provide an accurate portrayal of views to and from heritage items. It is suggested further consideration could be given to this issue in the future, particularly in relation to the forthcoming review of our Heritage LEP. If required, a subsequent amendment can be made to the DCP.

#### *Archival Recording Skills*

A number of submissions questioned whether the requirement in the draft DCP that an experienced heritage consultant “should” undertake archival recordings was too restrictive. They argued that this prevented amateurs from developing archival recording skills.

Comment: The use of the word “should” does not preclude competent amateurs. It is less restrictive than if the word “shall” had been used. The use of “should” recognises that an archival recording does require a broad range of photographic, drafting and presentation skills to produce a satisfactory record. It also recognises the fact that only one chance exists to record a place properly before demolition or alteration. Experience with the implementation with the current archival recording policy has shown that amateur recordings generally produce an incomplete record of a place and have involved considerable resources trying to obtain further information.

Since the archival recording will probably be the only surviving record of the place, it is vitally important that it is done correctly. The current phrasing of the draft DCP emphasises the importance to professionals and amateurs alike of maintaining a high standard of archival recording and amendment is therefore not recommended.

#### *Privacy Protection*

A concern over the maintenance of the privacy of owners whose property is listed on the Potential Places of Heritage Significance was raised.

Comment: Places on the Potential Places of Heritage List will be described and identified by their property title and address. No information about the identity of the owners will be listed. This is consistent with the current level of information published in the Penrith Heritage LEP and amendment of the draft DCP is therefore not recommended.

#### *Authority to List Potential Places of Heritage Significance*

Clarification was sought as to whether Council or its delegate determines nominations for listing on the Potential Places of Heritage Significance list.

Comment: The DCP requires the Council to determine nominations.

#### *Nomination Information Too Onerous*

Three submissions claimed that the level of information required in a nomination for listing a property as a Potential Place of Heritage Significance was excessive for members of the public.

Comment: To maintain public confidence in the integrity of the Potential Places of Heritage Significance List, it is important that objective criteria exist against which the nomination is assessed. The DCP adopts the standard significance criteria used by the State Heritage Council to assess the heritage significance of the place. Of the 10 criteria only one has to be satisfied in order to establish the significance of a place. Council must be able to be

demonstrate that it has acted reasonably and can justify the listing of a place. This has to be based on factual information, not on the subjective opinion of individuals.

The draft DCP provisions relating to information requirements for nominating a Potential Place of Heritage significance have therefore been retained in their current form.

*Time Limits for Further Information*

The DCP was criticised for not specifying a timeframe to nominators of places of potential heritage significance for the submission of additional information when requested by Council.

Comment: It may be from time to time necessary to request additional information to assist Council in assessing a nomination. However, at some point a decision on a nomination must be made and the DCP allows for Council to make the decision if the information is not forthcoming. In practice, a request for additional information will specify a generous deadline, which recognises the time needed to obtain it. This will provide a greater degree of flexibility depending on the circumstances of the case under consideration.

The draft DCP provisions allowing Council to request additional information have been retained in their current form.

*Heritage Committee Role in Nomination Assessment*

It was suggested in two submissions that the Council's own Heritage Advisory Committee should have a role in assessing and determining nominations for places of potential heritage significance.

Comment: The constitution of the Heritage Advisory Committee specifies that its role is to fundamentally promote the conservation of the heritage of Penrith. The DCP was conceived to retain Council's authority to determine whether or not a nomination for the Potential Place of Heritage Significance List is appropriate. This is considered reasonable because ultimately Council is the responsible authority and must defend its own decisions.

However, the nomination of places of potential heritage significance has been raised with the Heritage Advisory Committee and they have been given the opportunity to consider items which may have heritage significance in the City and bring those forward in nominations for Council's consideration. In practice, where time frames permit, nominations may be raised in the Committee meetings for comment.

The draft DCP provisions relating to Council determining nominations for the listing of Potential Places of Heritage Significance have been retained in their current form.

*Maintenance of Potential Places of Heritage Significance List*

Two submissions requested that the maintenance of Potential Places of Heritage Significance List should be done more regularly than annually.

Comment: The draft DCP states that a review will be done "at least annually". Nothing precludes Council from reviewing the list at more frequent intervals. However, from a practical perspective the list is likely to change incrementally as nominations for inclusion or omission are determined throughout the year. A more regular review schedule would place an unnecessary burden on Council with little benefit. The submission on this matter did not ascribe any greater benefit resulting from more frequent reviews. The Community's interest is maintained through the proposed annual review.

The draft DCP provisions relating to the Potential Places of Heritage Significance List annual review have been retained.

*Mandatory Requirement for Heritage Assessment for items of “obvious heritage value”*

Two submissions requested that the DCP be amended to enable Council to require an owner of a property nominated for inclusion on the Potential Place of Heritage Significance List to prepare and submit a heritage assessment of the place. This was to be applied in situations where a place has “obvious heritage values” and may or may not be the subject of a development proposal.

Comment: The process for nominating a property for inclusion of Potential Places of Heritage Significance List is designed to specifically put the onus on the person making the nomination to demonstrate that the place has some heritage significance worthy of further investigation at a later date. Only when a proposal for the development of a listed place was brought forward would the heritage significance of the place be fully investigated. Council does not have the statutory power to require such an assessment in the absence of a development proposal.

The draft DCP heritage provisions in relation to the nomination of a property for inclusion on the Potential Places of Heritage Significance List has been retained in its current form.

*Heritage Adviser Determination of Potential Places of Heritage Significance Nominations*

Two submissions believed that the DCP should specifically state that Council’s Heritage Adviser shall determine nominations for Potential Places of Heritage Significance.

Comment: It is not appropriate for the Heritage Adviser to make nomination determinations on behalf of Council. Responsibility for the implementation of the DCP rests with Council. In determining a nomination the advice of the Heritage Adviser will be sought and taken into account.

The draft DCP provisions relating to the Council’s determination of nominations has been retained in their current form.

*Expansion of “heritage significance” Definition*

One submission suggested the broadening of the definition of “heritage significance” to botanical, zoological, geological and anthropological values.

Comment: The definition used in the DCP is the standard definition recommended by the NSW Heritage Office. The suggested expanded values would be captured in the standard definition meanings, which includes historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic values.

The draft DCP definition of “heritage significance” remains unchanged.

*Maintenance Plan Requirement for all Heritage Items*

One submission objected to the DCP not requiring owners of all heritage properties to prepare a maintenance plan for their properties.

Comment: This objection misunderstands that Council only has the power to require the owners of heritage properties to do certain things under specific circumstances. In general terms, Council can only impose its powers if there is a health and safety issue that urgently needs to be rectified, or the public interest must be protected in the development application assessment process. The DCP only requires a maintenance plan when a heritage item or a place in a heritage conservation area is being developed for a prohibited use using the incentive clause in the Penrith Heritage LEP.

The draft DCP provisions requiring a maintenance plan when a heritage item or a place in a heritage conservation area is being developed for a prohibited use are retained in their current form.

### *Application of DCP to SREP Land*

The application of the DCP to heritage items on the ADI land, which is subject to SREP 30, was questioned.

**Comment:** A development control plan may provide more detailed provisions than are contained in a local environmental plan in respect of the land to which that plan applies. The DCP supports the Penrith Heritage LEP that applies to all the land in Penrith, except Sydney Regional Environmental Plan No. 11 – Penrith Lakes Scheme. With respect to the relationship of the Heritage LEP to all other regional environmental plans in Penrith, the provisions of the regional plans prevail to the extent of any inconsistency between them. It follows that the DCP applies to the REP lands to the extent of any inconsistency between the SREP's and the Heritage LEP. The DCP does indeed apply to the ADI SREP No. 30 land. Unfortunately, the exhibited DCP does not clearly state that it applies to land subject to the Penrith Heritage LEP. This omission may have contributed to doubt over its applicability to the ADI SREP 30 land.

The draft DCP has been amended to clarify the land to which it applies.

### *Definition of Heritage Item*

It was requested that the term “heritage item” should be defined to avoid confusion with other terms and provisions within the DCP.

**Comment:** This request is considered to be reasonable as it would remove any doubt about the meaning of the provisions of the DCP and would be consistent with the definition of other terms such as “heritage significance” and “potential place of heritage significance”. Furthermore it would be beneficial to define the term “heritage conservation area” to remove any doubt about the application of the DCP.

Schedule 1 of the draft DCP has been amended to include definitions for “heritage item” and “heritage conservation area”.

### *Application of Fee Concessions to Non-building Works*

One submission criticised the DCP development application refund provisions (Clause 25) for only applying to buildings and not to non-building heritage places. It was tendered that this discriminated against individuals and groups that may be involved in the restoration of landscapes, cemeteries, historic gardens, fences etc.

**Comment:** The criticism of the fee refund provisions of the DCP not applying to non-building heritage places is accepted. In reviewing the draft DCP, it is also apparent that its wording does not emphasise the fact that the refund is predicated on the works being sympathetic and maintaining the heritage significance of the place. Although in practice this will be achieved by requiring compliance with the development consent, it would be preferable to highlight up-front in the draft DCP that a fee refund will only be considered if the proposal is sympathetic and conserves intrinsic heritage values.

The draft DCP has been amended to specifically reference non-building heritage places as being eligible for an application refund and the need for restorations to be sympathetic to the heritage place.

### *Definition of “in the vicinity” of a heritage item*

One submission questioned the definition of the phrase “in the vicinity” and whether it was related to the setting of a heritage item and its visual curtilage. The issue was how could the DCP require a Heritage Impact Statement in the vicinity of a Heritage item if the term was not precisely defined.

Comment: Defining “in the vicinity” has long been a difficult concept to express. Even the NSW Heritage Office does not have a formal definition. Nonetheless it is reasonable to try and define it and Schedule 1 of the draft heritage DCP has been amended with the addition of the new definition.

#### *Maintenance Plan Too Onerous*

One submission claimed that the requirement for a maintenance plan to have been prepared for a heritage building proposed to be used for a non-permissible use when Council is considering such an application, was an unnecessary imposition and a burden.

Comment: The use of incentive clauses in environmental planning instruments to permit a prohibited use under the zone if it leads to the conservation of a heritage building has been used many times in Penrith. Experience has shown however, that in some cases, once an approval for the use has been obtained, the maintenance of the building has not occurred to a satisfactory level. This has resulted in unnecessary deterioration and destruction of original fabric. It is considered reasonable for developers and owners gaining such a significant advantage from the use of a heritage listed property that the maintenance of the building is ensured for the long term. In this way the concession given by the community to allow a prohibited use to occur in a heritage building is “repaid” by the owner and/or developer by maintaining that community heritage asset.

The draft DCP provisions requiring the preparation of a long-term maintenance plan has been retained.

#### *Reduced “up-front” Fees*

One submission requested that the development fee relief incentives be given “up-front” rather than being refunded after completion of the development.

Comment: The reason for Council offering the refund of a range of development fees is to ensure that all development conditions attached to a development consent are complied with before granting a refund. Experience has shown that in some cases consent conditions are not complied with satisfactorily. It is considered reasonable for Council to refund fees only after it is satisfied that any consent conditions that were imposed, and especially those related to the conservation of heritage significance, are fully complied with.

The draft DCP provisions providing conservation incentives through different types of fee relief have been retained in their present form.

### **Conclusion**

The exhibition of the draft Heritage Management Development Control Plan elicited a broad range of public submissions. Many of the submissions raised issues that are important for “fine tuning” the document. This will ensure that it meets the community’s needs and aspirations for heritage conservation in Penrith. The recommendation proposed in this report address the issues raised in the submissions.

**RECOMMENDATION**

That Council resolve to adopt the Heritage Management Development Control Plan as amended and attached to this report.



# **Development Control Plan Heritage Management**

## **Name of this plan**

1. This Plan is the Penrith Heritage Management Development Control Plan.

## **Operation of this plan**

2. This plan is a development control plan prepared and adopted in accordance with Section 72 of the Environmental Planning and Assessment Act, 1979. It is a policy document for the general guidance of Council in the exercise of its duties and functions under parts IV and V of that Act.

## **Objectives of the plan**

3. The overall objective of the plan is to promote the wise management, development and conservation of the heritage assets of Penrith. Specifically the objectives of the plan are:
  - (a) To conserve the environmental heritage of Penrith;
  - (b) To conserve the heritage significance of existing significant fabric, relics, settings and views associated with the heritage significance of heritage items and heritage conservation areas; and
  - (c) To allow for the protection of places which have the potential to have heritage significance but are not identified as heritage items; and
  - (d) To ensure that the heritage conservation areas throughout Penrith retain their heritage significance.
  - (e) To provide guidance on the range and application of available conservation incentives.
  - (f) To ensure archival records of heritage items and potential heritage places are undertaken in certain circumstances to a prescribed standard.
  - (g) To ensure that proposals for development of environmental heritage are sustainable and appropriate way that conserves its values.

## **Land to which plan applies**

4. This plan applies to all land within the City of Penrith, including land subject to the Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation), except for that land located within Sydney Regional Environmental Plan No 11- Penrith Lakes Scheme.

## **Relationship to other plans**

5. This plan provides an extension of the environmental planning instrument framework that protects identified heritage items and heritage conservation areas. The plan describes development policies, guidelines and standards, which are applicable to certain categories of development. This plan also extends the statutory planning framework by identifying places of potential heritage significance.

6. Related to this plan, but not limited to it are the following development control plans which have specific heritage provisions:
- Residential land (5 volumes)
  - Exempt and complying development
  - Advertising signs
  - Contaminated land
  - Register of significant trees and gardens

## **Definitions**

7. In this plan specific terms have the meanings as defined in Schedule 1.

## **Identification of potential places of heritage significance**

### ***Potential place of heritage significance list***

8. The Council shall prepare a list identifying potential places of heritage significance that is published on its internet website ([www.penrithcity.nsw.gov.au](http://www.penrithcity.nsw.gov.au)) and is available for inspection during normal working hours.

### ***Maintenance of the list***

9. The council is responsible for determining whether any place of potential heritage significance should be inserted in or omitted from the list of Potential Places of Heritage Significance.
10. Accordingly, the Council shall keep the list under review and shall, at least annually, determine whether any change to the list is necessary.

### ***Nomination for inclusion on, omission from or amendment of list***

11. Any person may nominate a potential place of heritage significance for insertion in or omission from the list.
12. A nomination must be in writing and include any information prescribed by the current NSW State Heritage Inventory form.
13. The Council may request a person who makes a nomination to provide additional information about the subject matter of the nomination within a specified period.

### ***Consideration of a nomination***

14. The Council shall consider each nomination as soon as practicable after it is made or, if additional information has been requested, after that information has been provided or the period specified for its provision has expired.
15. The Council may consider different nominations about the same place together.
16. The Council may reject a nomination if:
- (a) the nomination has already been dealt with, or
  - (b) the nomination is not accompanied by the information prescribed in clause 12, or
  - (c) any additional information requested by the Council is not provided within the period specified for its provision.
  - (d) any additional information provided is inadequate and does not satisfy the Council's request.

### ***Determination of a nomination***

17. The Council, after considering a proposal raised in its own initiative or a nomination by another person, must make a determination as to whether the proposal should be supported or not supported.
18. As soon as possible after making a determination, the Council must:
  - (a) notify the person who made the nomination of its decision, and
  - (b) include a supported determination on the Potential Place of Heritage Significance list.

### ***Removal from the Potential Place of Heritage Significance List***

19. The Council may remove a place from the Potential Place of Heritage Significance List after it has considered a Statement of Heritage Significance prepared by an independent, appropriately experienced consultant which determines that the place does not possess local or State heritage significance that would qualify it listing as a local heritage item in an environmental planning instrument.

### **Assessment of Potential Places of Heritage Significance**

20. Before granting consent for development that will be undertaken on a potential place of heritage significance, Council must consider a Statement of Heritage Significance.

### **Protection of heritage items, heritage conservation areas and places of potential heritage significance**

#### ***Development application assessment***

21. Before granting consent to a development application, Council must assess the extent to which the carrying out of the proposal would affect the heritage significance of the heritage item, heritage conservation area or place of potential heritage significance.

#### ***Heritage Impact Statement***

22. A Heritage Impact Statement shall be lodged with a development application for buildings or works to a heritage item, a place within a heritage conservation area, or a potential place of heritage significance. The statement shall address at least the issues specified in clause 23, but is not to be limited to assessment of those issues, if the heritage significance concerned involves other issues.
23. The minimum number of issues that must be addressed by the heritage impact statement are:
  - (a) for development that would affect a heritage item:
    - (i) the heritage significance of the item as part of the environmental heritage of Penrith, and
    - (ii) the impact that the proposed development will have on the heritage significance of the item and its setting, including any landscape or horticultural features, and
    - (iii) the measures proposed to conserve the heritage significance of the item and its setting, and
    - (iv) whether any archaeological site or potential archaeological site would be adversely affected by the proposed development, and
    - (v) the extent to which the carrying out of the proposed development would affect the form of any significant subdivision pattern, and
    - (vi) the issues raised by any submission received in relation to the proposed development in response to the notification or advertising of the application.

- (b) for development that would be carried out in a heritage conservation area:
  - (i) the heritage significance of the heritage conservation area and the contribution which any building, work, relic, tree or place affected by the proposed development makes to this heritage significance, and
  - (ii) the impact that the proposed development would have on the heritage significance of the heritage conservation area, and
  - (iii) the compatibility of any proposed development with nearby original buildings and the character of the heritage conservation area, taking into account the size, form, scale, orientation, setbacks, materials and detailing of the proposed development, and
  - (iv) the measures proposed to conserve the significance to the heritage conservation area and its setting, and
  - (v) whether any landscape or horticultural features would be affected by the proposed development, and
  - (vi) whether any archaeological site or potential archaeological site would be adversely affected by the proposed development, and
  - (vii) the extent to which carrying out of the proposal development in accordance with the consent would affect any historic subdivision pattern, and
  - (viii) the issues raised by any submission received in relation to the proposed development in response to the notification or advertising of the application.
  
- (c) for development that would affect a place of potential heritage significance:
  - (i) the heritage significance of the place as part of the environmental heritage of Penrith, and
  - (ii) the impact that the proposed development will have on the heritage significance of the place and its setting, including any landscape or horticultural features, and
  - (iii) the measures proposed to conserve the heritage significance of the place and its setting, and
  - (iv) whether any archaeological site or potential archaeological site would be adversely affected by the proposed development, and
  - (v) the extent to which carrying out of the proposal development in accordance with the consent would affect any historic subdivision pattern.

***Development within the vicinity of a heritage item***

24.

- (a) A Heritage Impact Statement shall be lodged with a development application for buildings or works in the vicinity of a heritage item. This clause extends to development that:
  - (i) may have an impact on the setting of a heritage item, for example, by affecting a significant view to or from the item or by overshadowing, or
  - (ii) may undermine or otherwise cause physical damage to a heritage item, or
  - (iii) will otherwise have any adverse impact on the heritage significance of a heritage item or of any heritage conservation area within which it is situated.
  
- (b) The minimum number of issues that must be addressed by the heritage impact statement are:
  - (i) the impact of the proposed development on the heritage significance, visual curtilage and setting of the heritage item, and

- (ii) details of the size, shape and scale of, setbacks for, and the materials to be used in, any proposed buildings or works, and
- (iii) details of any modification that would reduce the impact of the proposed development on the heritage significance of the heritage item.

### ***Conservation Incentives Development Concessions***

25. Council in assessing an application for the use for any purpose of a building that is a heritage item or within a heritage conservation area even though the use would otherwise not be allowed by a planning instrument, shall consider the following matters:

- (a) that the conservation and retention of the heritage significance of the place depends on the granting of consent, and
- (b) that the proposed use is in accordance with a conservation management plan or a detailed schedule of conservation works for the building which has been endorsed by Council, and
- (c) that the granting of consent to the proposed development would ensure that all necessary conservation work identified in the conservation management plan or a detailed schedule of conservation works for the building is carried out, and
- (d) a detailed long term maintenance plan for the building is specified, and
- (e) that the proposed use would not adversely affect the heritage significance of the place, and
- (f) that the proposed use would not adversely affect the amenity of the surrounding area otherwise than to an insignificant extent.

### ***Fee Concessions***

26. (a) An applicant may apply, in writing, to Council to have refunded development application, construction certificate, building compliance certificate fees for approved development for buildings or works to a heritage item, a place within a heritage conservation area, or a potential place of heritage significance under the following circumstances:

- (i) sympathetic restorations, alterations and additions to original buildings used for residential purposes,
  - (ii) sympathetic restorations, alterations and additions to original buildings to accommodate community facilities, home activities and home businesses,
  - (iii) sympathetic restorations of non-building places
- (b) Requests for application fee refunds will be assessed in accordance with the following criteria:
- (i) compliance with a development consent and any consent conditions, and
  - (ii) compliance with a construction certificate and any consent conditions, and
  - (iii) compliance with the provisions of this development control plan, and
  - (iv) conservation of original building fabric and landscape elements, and
  - (v) any other relevant heritage conservation matter.

### ***Other Concessions***

27. (a) In relation to an application for the use for any purpose of a building that is a heritage item, within a heritage conservation area, or a potential place of heritage significance, an applicant may apply in writing to Council to have waived the following contributions or requirements associated with undertaking an approved development:

- (i) Section 94 Developer Contributions under the Environmental Planning and Assessment Act;

- (ii) on site car parking requirements;
  - (iii) other development requirements of the Council which ordinarily would be applied to the type of proposal.
- (b) To obtain a concession, applicants will need to demonstrate that their development proposal will:
- (i) ensure the long-term conservation and management of the heritage values of the building or place;
  - (ii) result in the conservation of original building fabric, landscape elements or archaeological resources;
  - (iii) ensure that the concession sought maintains the public interest and that the development proposal will on balance result in a net public benefit;
  - (iv) not result in any significant adverse impacts on the amenity of adjacent properties or surrounding environment.
- (c) Requests to obtain a concession under this clause will be assessed on their merits and reported to the Council for determination.

## **Archival Recording**

### ***Archival Recording Requirement***

28. Council shall require an archival recording as condition of development consent for development involving the demolition or partial demolition of a heritage item, a place within a heritage conservation area, or a potential place of heritage significance.

### ***Standard of Recording***

29. The minimum standard for an archival recording is described in Schedule 2. A heritage consultant experienced in the preparation of an archival recording should be engaged to undertake the recording.

### ***Deferred Commencement Consent***

30. A development consent issued by Council for the demolition or partial demolition of a heritage item, a place within a heritage conservation area, or a potential place of heritage significance shall be in the form of a deferred commencement. This is to ensure that the archival recording is completed to Council's satisfaction before the consent becomes operable.

# Schedule 1

## Definitions

In this plan:

"demolish" a heritage item, or a building or a work, archaeological site, tree, or place within a heritage conservation area, or a potential place of heritage significance, means wholly or partly destroy, dismantle or deface the heritage item or the building, work, archaeological site, tree or place.

"heritage conservation area" means the land defined in the Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation).

"heritage item" means a place, building, work or archaeological site described in the following environmental planning instruments:

- Schedule 2 of the Penrith Local Environmental Plan 1991; and
- Sheet 2 of the Map, Mulgoa Valley Regional Environmental Plan No.13; and
- Sheet 2 of the Map, Orchard Hills Regional Environmental Plan No.25; and
- The Heritage Map of St Marys Regional Environmental Plan No. 30; and
- Schedule 1 of the Hawkesbury-Nepean Regional Environmental Plan No. 20.

"heritage impact statement" means a document consisting of a statement demonstrating the heritage significance of a heritage item or heritage conservation area or of a building, work, archaeological site, tree or place within a heritage conservation area, or a potential place of heritage significance, an assessment of the impact that proposed development will have on that significance and proposals for measures to minimise that impact.

"heritage significance" means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

"in the vicinity" means:

- (a) within an allotment abutting or directly across a road reservation from an allotment containing a heritage item, or within 200 metres of a boundary of an allotment containing a heritage item (whichever is the lesser), or
- (b) within the curtilage of a heritage item that has been formally defined by an environmental planning instrument, or in a heritage study supporting that instrument, or by a Commission of Inquiry, or in a development control plan, or in a conservation management plan."

"maintenance" means the ongoing protective care of a heritage item or a building, work, tree, archaeological site or place within a heritage conservation area. It does not include alterations, such as carrying out extensions or additions, or the introduction of new materials or technology.

"maintenance plan" means a systematic and regular program of works and activities for the ongoing protective care of a heritage item, or a potential place of heritage significance, or a work, tree archaeological site or place within a heritage conservation area. It includes, but is not limited to, regular inspection and periodic works programmed to be undertaken over the short, medium and long term on the following general building elements:

- (a) foundations, and
- (b) walls, and
- (c) roof, and
- (d) roof plumbing and stormwater system, and
- (e) doors and windows, and

- (f) floors, and
- (g) ceilings, and
- (h) timberwork and joinery, and
- (i) plasterwork, and
- (j) paintwork, and
- (k) lighting and power, and
- (l) plumbing, and
- (m) heating and cooling, and
- (n) siteworks.

"potential place of heritage significance" means a place:

- (a) that is on the Potential Place of Heritage Significance list held by Council; or
- (b) that is subject to an Interim Heritage Order or nominated for inclusion on the State Heritage Register; or
- (c) that is, in the opinion of Council, a place of heritage significance to the community.

"schedule of conservation works" means a description and assessment of the existing condition of the internal and external materials, fabrics and finishes of a building and a description of the conservation, restoration and rehabilitation methods necessary to maintain its heritage significance and upgrade and rectify the building for its future use. It includes, but is not limited to, information the maintenance of the heritage values of the building through the appropriate design and installation of new services, materials, fabrics and finishes on:

- (a) external walls, roof, verandahs, doors, windows, chimneys, ventilation, outbuildings, fences, gates, paving, drainage, trees and gardens, and
- (b) internal walls, ceilings, attic space, doors, windows, architraves, skirtings, floors and sub-floor access and ventilation.

It also includes information on the timing of the undertaking of the list of proposed construction activities and estimates of the cost of each component of the construction activities.

## Schedule 2

### Archival Recording Standards

The following is a simple checklist of items that must be included in an archival recording. Additional information may be submitted if it adds to the understanding of the place.

1. **Title page** with subject, author, client, date and copyright.
2. **Statement of why the record was made**
3. **Outline history of the item** and associated sites, structures and people.
4. **Statement of heritage significance** of the items using "Assessing Heritage Significance" by the NSW Heritage Office(2002)
5. **Inventory of archival documents** related to the item (eg, company records, original drawings), when available.
6. **Location plan**  
Show relationship to surrounding geographical features, structures, roads, vegetation etc. Include a north point.
7. **Base plans**  
Drafted or hand-drawn base plans shall be prepared and include:
  - Cross-references to photographs
  - Name the relevant features, structures and spaces
  - A north point.
8. **Black and white photographic record**  
One set of 35mm black and white negatives labeled and cross-referenced to base plans and accompanied by informative catalogues are required. Two copies of proof sheets and select medium format prints showing important details shall be provided. Images shall include:
  - views to and from the site (possibly from four compass points)
  - views showing relationships to other relevant structures and landscape features
  - all external elevations
  - Views of all external and internal spaces (eg, courtyards, rooms roof spaces etc.)
  - External and internal details (e.g., joinery, construction joints, decorative features, paving types, etc.).All photographic images shall be mounted and labeled.
9. **Colour slides**  
Two copies mounted in archivally stable slide pockets, clearly labeled and cross-referenced to base plans. Images shall include:
  - views to and from the site and/or the heritage item
  - views and details of external and internal colour schemes as appropriate.Selected colour prints may be required. They should be mounted and labeled.
10. **Measured Drawings**  
Appropriately scaled drawings printed on archivally stable paper shall be provided. For a built item, this may include:
  - Site plan (1:500 or 1:200)
  - Floor plan/s (1:100 or 1:50)
  - Elevations and sections (1:100 or 1:50)
  - Roof plan/s (1:100 or 1:50)
  - Ceiling and joinery details (1:20 or 1:10)
  - Machinery and services details, e.g., drainage lines

## 11. **Presentation**

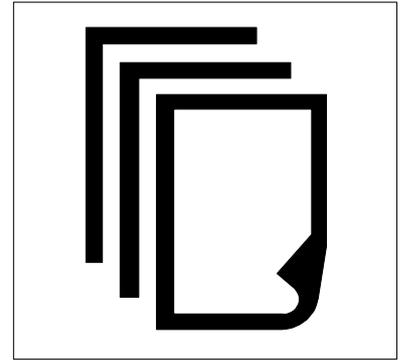
The archival recording shall be presented to Council as a single bound document preferably in A4 format. Large maps shall be folded and inserted as map pockets attached to the document. Similarly, all photographic images shall be fixed to the document and labelled.

No unbound documents or loose supporting materials such as maps, plans, slides, negatives or prints are acceptable.

Two complete copies of the archival recording are required. However, one copy may not include a set of photographic negatives and colour slides.

An optional copy of the whole recording may be submitted in CD-ROM format in addition to the two required hard copies.

# ATTACHMENT



**Date of Meeting:** 25 November 2002

**Master Programme:** The City as an Economy

**Programme:** Business Development

**Report Title:** PENRITH VALLEY ECONOMIC  
DEVELOPMENT AND  
EMPLOYMENT COMMITTEE

**Final Draft**

**Draft Constitution of  
Penrith Valley Economic Development  
Corporation Limited (ACN)**

---

## Preliminary

1. The Company is a public company limited by guarantee. Each member undertakes to contribute \$1.00 to the property of the Company if the Company is wound up at a time when that person is a Member, or within one year of the time that the person ceased to be Member, payment of costs charges and expenses of winding up the Company, and adjustment of the rights of contributories among themselves.
  
- 2a. The Object of the Company is:

“To promote and support the sustainable growth of the Penrith City economy and increase employment opportunities and skills through cooperative action.”
  
- 2b. The Aims of the Company are:
  1. Promote, market and raise the profile of the city
  2. Assist the growth of business in the region
  3. Retain existing business
  4. Attract and assist the establishment of new, viable businesses to the region
  5. Prepare for emerging economic environment
  6. Optimise the resources and expertise of the Penrith City Community
  7. Facilitate cooperative action amongst the city’s businesses, institutions and people.
  
3. The Company must not make any distribution to any Members, whether by way of dividend, surplus on winding up or otherwise. This Clause does not prevent the payment in good faith by the Company of reasonable remuneration to any Member for goods or services supplied by that Member to the Company in the ordinary course of business, the payment of interest at a reasonable rate on money borrowed by the Company from any Member, the payment of reasonable rent for premises leased to the Company by any Member, or the payment of any other reasonable amount of a similar character to those described in this Clause.

4. The replaceable rules in the Corporations Act do not apply to the Company.
5. In this Constitution:

**“Business Day”** means a day except a Saturday, Sunday or public holiday in the jurisdiction under the Corporations Act which the Company is taken to be registered.

**“Cessation Event”** means:

- (a) if a Member is an individual, death or bankruptcy of that Member, or that Member becoming of unsound mind or becoming a person whose property is liable to be dealt with under a law about mental health; or
- (b) if a Member is a body corporate, the deregistration of that Member.

**“Corporations Act”** means the Corporation Act, 2001 (Commonwealth), as modified or reenacted from time to time, and where appropriate, includes any regulations issued under it.

**“Directors”** means the directors of the Company for the time being.

**“Expulsion Event”** means, in respect of a Member:

- (a) The Member has willfully refused or neglected to comply with the provisions of this Constitution;
- (b) The conduct of the Member, in the opinion of Directors, is unbecoming of the Member or prejudicial to the interests or reputation of the Company, or
- (c) The Member is, or any step is taken for the Member to become, an externally administered body corporate (whether or not the Member is a body corporate).

**“Legal Costs”** of a person means legal costs incurred by that person in defending an action for a Liability of that person.

**“Liability”** of a person means any liability incurred by that person as an officer of the Company or a subsidiary of the Company.

**“Member”** means a person who is a member of the Company.

**“Personal Representative”** means the legal personal representative, executor or administrator of the estate of a deceased person.

**“Register”** means the register of Members kept under the Corporations Act and, where appropriate, includes any branch register.

**“Relevant Officer”** means a person who is, or has been, an officer of the Company (including a Director or Secretary) or an officer of a subsidiary of the Company.

**“Secretary”** means a company secretary of the Company for the time being.

6. In this constitution:
  - (a) a reference to a meeting of Members includes a meeting of any class of Members;
  - (b) a Member is taken to be present at a meeting of Members if the Member is present in person or by proxy, attorney or representative; and
  - (c) a reference to a notice or document in writing includes a notice or document given by fax or another form of written communication.
7. In this Constitution, unless the context indicates a contrary intention, words importing the singular include the plural (and vice versa), words indicating a gender include every other gender, the word “person” includes a corporation.
8. Unless the context indicates a contrary intention, an expression of this Constitution that deals with a matter dealt with by a provision of the Corporations Act has the same meaning as in that provision of the Corporations Act and an expression in a provision of this Constitution that is defined in section 9 of the Corporations Act has the same meaning as in that Section.

---

## **Directors**

- 9a. At any time, the Board shall consist of not less than 6 and not more than 12.
- 9b. The Directors of the company shall be:
  1. One Director appointed by the University of Western Sydney;
  2. One Director appointed by the Western Sydney Institute of TAFE;
  3. One Director being a Councillor appointed by Penrith City Council;
  4. One Director being an employee of Penrith City Council appointed by the General Manager;
  5. One Director appointed by the Wentworth Area Health Service;

6. One Director appointed by the Penrith Valley Business Enterprise Centre
7. Six other Directors elected from the Members of the Company.

Other than provided above, the Board cannot have more than one person from any business, institution or organisation.

- 9c. The method for electing the directors from the members of the Company shall be by a show of hands. Nominations will be called for the positions available, and the nominees will be asked if they accept the nomination. When all nominations have been accepted a vote will be taken by a show of hands for each nominee, and those six with the highest number of votes will be elected. In the event that there are positions remaining and those seeking to fill these positions have an equal number of votes, the names of those nominees will be placed into a box, and the required number of names drawn out in order to fill the six positions. Those whose names are drawn out will become the directors.  
Prior to the Annual General Meeting, a nomination form will be provided to each member. The form must be signed by the member, and returned to the Company Secretary not less than seven (7) days before the date fixed for the Annual General Meeting.
- 9d. To provide continuity the Members on the Board shall resign on a rotating basis. At the first annual general meeting two (2) shall resign. At the second annual general meeting two (2) shall resign. Thereafter the Members of the Board shall resign after serving three years on the Board after appointment or reappointment to the Board.
- 9e. All retiring Directors shall be eligible for re-appointment.
- 9f. Notwithstanding 9C, the Directors from the following organisations from University Western Sydney, Western Sydney Institute of TAFE, Penrith City Council and Wentworth Area Health Service shall hold office until the relevant Organisation indicates they wish to replace the Director or the Director no longer holds a position in that organisation. Those organisations shall review the Directors at least every three years.
10. A Director may resign from office by giving the Company notice in writing.
11. Subject to the Corporations Act, the Company in general meeting may by ordinary resolution remove any Director, and if thought fit, appoint another person in place of that Director except that where the Director is appointed by an organisation set out in Clause 9C then the General Meeting shall not be entitled to remove the Director but shall be entitled to draw the Directors conduct (if any) to the attention of the relevant organisation.
12. A Director ceases to be a Director if:

- (a) The Director becomes of unsound mind or a person whose property is liable to be dealt with under a law about mental health;
  - (b) the Director resigns or is removed under this Constitution;
  - (c) The Director becomes an insolvent under administration; or
  - (d) The Corporations Act so provides.
13. The Company must not pay any fees to a Director for performing that person's duties and responsibilities as a Director. The Company must not pay any amount to a Director unless that payment has been approved by the Directors.
14. The Company must pay all "out of pocket" expenses to Directors as determined by the Board. Directors will not be entitled to other remuneration.
15. A Director may:
- (a) hold an office or place of profit (except as auditor) in the Company, on any terms as the Directors resolve (subject to Clause 13);
  - (b) hold an office or otherwise be interested in any related body corporate of the Company or other body corporate in which the Company is interested; or
  - (c) act, or the Director's firm may act, in any capacity for the Company (except as auditor) or any related body corporate of the Company or other body corporate in which the Company is interested,
- and retain the benefits of doing so if the Director discloses in accordance with the Corporations Act the interest giving rise to those benefits.
16. Subject to the Corporations Act, a Director shall from time to time complete such declarations of material personal interest as the Company may require in accordance with the provisions of the Corporations Act, if a Director discloses the interest of the Director in accordance with the Corporations Act, the Director may:
- (a) contact or make an arrangement with the Company, or a related body corporate of the Company or a body corporate in which the Company is interested, in any matter in any capacity;

- (b) be counted in a quorum for a meeting of Directors considering that contract or arrangement, and vote on whether the Company enters into the contract or arrangement, and on any matter that relates to the contract or arrangement;
- (c) sign on behalf of the Company, or witness the fixing of the common seal of the Company (if any) to, any document in respect of the contract or arrangement, and
- (d) retain the benefits under the contract or arrangement.

---

## Officers

- 17. The Directors may appoint one or more of themselves to the office of managing director, for any period and on any terms the Directors resolve (subject to Clause 13). Subject to any agreement between the Company and a managing director, the Directors may remove or dismiss a Director from the office of managing directors at any time, with or without cause. The Directors may revoke or vary the appointment of a Director to the office of managing director or any power delegated to a managing director. A person ceases to hold the office of managing director if the person ceases to be a Director.
- 18. The Directors may delegate any of their powers (including the power to delegate) to a managing director. A managing director must exercise the powers delegated to him or her in accordance with any directions of the Director. The exercise of a power by a managing director is as effective as if the Directors exercised the power.
- 19. The Directors may appoint one or more Secretaries, for any period and on any terms (including as to remuneration) the Directors resolve. Subject to any agreement between the Company and a Secretary, the Directors may remove or dismiss a Secretary at any time, with or without cause. The Directors may revoke or vary the appointment of a Secretary.
- 20. To the extent permitted by law, the Company may (by agreement or deed) indemnify each Relevant Officer against a Liability of that person and Legal Costs of that person. To the extent permitted by law, the Company may also make a payment (whether by way of advance, loan or otherwise) to a Relevant Officer in respect of Legal Costs of that person.
- 21. To the extent permitted by law, the Company may pay, or agree to pay, a premium for a contract insuring a Relevant Officer against a Liability or that person and Legal Costs of that person.

---

## **Powers of the company and directors**

22. The Company may exercise in any manner permitted by the Corporations Act any power which a public company limited by guarantee may exercise under the Corporations Act. The business of the Company is managed by or under the direction of the Directors. The Directors may exercise all the powers of the Company except any powers that the Corporations Act or this Constitution requires the Company to exercise in general meeting.
23. If the Company has a common seal, the Company may execute a document if that seal is fixed to the document and the fixing of that seal is witnessed by 2 Directors, a Director and a Secretary, or a Director and another person appointed by a resolution of the Directors for that purpose.
24. The Company may execute a document without a common seal if the document is signed by 2 Directors, a Director and a Secretary, or a Director and another person appointed by a resolution of the Directors for that purpose.
25. The Company may execute a document as a deed if the document is expressed to be executed as a deed and is executed in accordance with Clause 22 or 23.
26. The Directors may resolve, generally or in a particular case, that any signature on certificates of Membership of the Company may be affixed by mechanical or other means.
27. Negotiable instruments may be signed, drawn, accepted, endorsed or otherwise executed by or on behalf of the Company in the manner and by the persons as the Directors resolve.
28. The Directors may delegate any of their powers (including this power to delegate) to a committee of Directors, a Director, an employee of the Company or any other person. The Directors may revoke or vary any power so delegated. A committee or delegate must exercise the powers delegated in accordance with any directions of the Directors. The exercise of a power by the committee or delegates is as effective as if the Directors exercised the power. Clause 31 to 39 apply with the necessary changes to the meetings of a committee of Directors.
29. The Directors may appoint any person to be attorney or agent of the Company for any purpose, for any period and on any terms (including as to remuneration) the Directors resolve. The Directors may delegate any of their powers (including the power to delegate) to an attorney or agent. The Directors may revoke or vary that appointment or any power delegated to an attorney or agent.

30. Any act done by a person as a Director or Secretary is effective even if the appointment of that person, or the continuance of that appointment, is invalid because the Company or that person did not comply with the Constitution or any provision of the Corporations Act. This Clause does not deal with the question whether an effective act by a person binds the Company in its dealings with other people or makes the Company liable to another person.

---

## Meetings of Directors

31. The Directors may pass a resolution without a meeting of the Directors being held if a document containing the resolution is sent to all Directors and a majority of the Directors entitled to vote on the resolution sign that document containing a statement that they are in favour of the resolution set out in the document. Separate copies of that document may be used for signing by Directors if the wording of the resolution and the statement is identical in each copy.
32. The Directors may meet, adjourn and otherwise regulate their meetings as they think fit. A meeting of Directors may be held using any technology consented to by a majority of the Directors. A Director may only withdraw that consent within a reasonable period of time before the meeting. Any Director may call a meeting of Directors at any time. On request of any Director, a Secretary of the Company must call a meeting of the Directors. Notwithstanding the above a meeting shall be called each calendar month except in the month of January.
33. Reasonable notice of a meeting of Directors must be given to each Director.
34. A quorum for a meeting of Directors must be present at all times during the meeting. Subject to the Corporations Act, a quorum for a meeting of Directors is, half plus one of the Directors presently appointed to the Board at any given time.
35. If there are not enough persons to form a quorum for a meeting of Directors, one or more of the Directors (including those who have an interest in a matter being considered at that meeting) may call a general meeting and the general meeting may pass a resolution to deal with the matter.
36. The Directors may appoint a Director to the office of chairperson of Directors for any period they resolve, or if no period is specified, until that person ceases to be a Director. The Directors may remove a Director from the office of chairperson of Directors at any time.

37. The chairperson of Directors must (if present within 5 minutes after the time appointed for the holding of the meeting and willing to act) chair each meeting of Directors. If there is no chairperson of Directors, or the chairperson of Directors is not present within 5 minutes after the time appointed for the holding of a meeting of Directors or is present within that time but is not willing to chair all or part of that meeting, then the Directors present must elect one of themselves to chair all or part of the meeting of Directors.
38. A resolution of Directors is passed if more votes are cast in favour of the resolution than against it. Subject to Clause 16 and this Clause, each Director has one vote on a matter arising at a meeting of the Directors.
39. Subject to the Corporations Act, in case of an equality of votes on a resolution at a meeting of Directors, the chairperson of that meeting has a casting vote on that resolution in addition to any vote the chairperson has in his capacity as a Director in respect of that resolution.

---

## **Meeting of members**

40. Subject to the Corporations Act, the Directors may call a meeting of Members. The Directors must call and arrange to hold a general meeting on the request of Members, and the Members may call and arrange to hold a general meeting, as provided by the Corporations Act.
41. The Company must hold an annual general meeting if required by, and in accordance with, the Corporations Act.
42. Subject to the Corporations Act, the Company must give not less than 21 days notice of a meeting of Members. The Company may call an annual general meeting on shorter notice if all Members entitled to attend and vote at the annual general meeting agree beforehand. The Company may call a general meeting (not being an annual general meeting) on shorter notice if Members with at least 95% of the votes that may be cast at the meeting agree beforehand.
43. Notice of a meeting of Members must be given to each Member, each Director, each Alternate Director and any auditor of the Company.
44. A notice of a meeting of Members must:
  - (a) set out the place, date and time for the meeting (and if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);

- (b) state the general nature of the business of the meeting; and
  - (c) set out or include any other information or documents specified by the Corporations Act.
- 45. Subject to the Corporations Act, anything done (including the passing of a resolution) at a meeting of Members is not invalid if either or both:
  - (a) a person does not receive a notice of the meeting; or
  - (b) the Company accidentally does not give notice of the meeting to a person.
- 46. A meeting of Members may be held in 2 or more places linked together by any technology that gives the Members as a whole in those places a reasonable opportunity to participate in proceedings, enables the chairperson to be aware of proceedings in each place, and enables the Members in each place to vote on a show of hands and on a poll.
- 47. Each Member and any auditor of the Company is entitled to attend and participate in any meetings of Members. Subject to this Constitution, each Director is entitled to attend and participate at all meetings of Members.
- 48. A quorum for a meeting of Members must be present at all times during the meeting. A quorum for a meeting of Members is at least 10 members entitled to vote at that meeting.
- 49. If a quorum is not present within 15 minutes after the time appointed for a meeting of Members:
  - (a) if the meeting was called by the Directors at the request of Members or was called by the Members, the meeting is dissolved; and
  - (b) any other meeting is adjourned to the date, time and place as the Directors may by notice to the Members appoint, or failing any appointment, to the same day in the next week at the same time and place as the meeting adjourned.
- 50. If a quorum is not present within 15 minutes after the time appointed for an adjourned meeting of Members, the meeting is dissolved.

51. The chairperson of Directors must (if present within 15 minutes after the time appointed for the holding of the meeting and willing to act) chair each meeting of Members. If at a meeting of Members, there is not chairperson of Directors, or the chairperson of Directors is not present within 15 minutes after the time appointed for the holding of a meeting of Members, or is present within that time but is not willing to chair all or part of that meeting, the Members present must elect another person present and willing to act to chair all or part of that meeting.
52. Subject to the Corporations Act, the chairperson of a meeting of Members is responsible for the general conduct of that meeting and for the procedures to be adopted at that meeting.
53. Subject to the Corporations Act, a resolution is passed if more votes are cast in favour of the resolution by Members entitled to vote on the resolution than against the resolution. Unless a poll is requested in accordance with Clauses 65 and 66, a resolution put to the vote at a meeting of Members must be decided on a show of hands.
54. A declaration by the chairperson of a meeting of Members that a resolution on a show of hands is passed, passed by a particular majority, or not passed, and a record of that declaration in the minutes of the meeting, are sufficient evidence of that fact, unless proved incorrect.
55. A poll may be demanded on any resolution at a meeting of Members. A poll may be demanded by at least 5 Members present and entitled to vote on that resolution, one or more Members present and who are together entitled to at least 5% of the votes that may be cast on the resolution or poll, or the chairperson of that meeting. A poll may be demanded before a vote on that resolution is taken, or before or immediately after the results of the vote on that resolution on a show of hands are declared. A demand for a poll may be withdrawn.
56. A poll demanded on a resolution at a meeting of Members for the election of a chairperson of that meeting or the adjournment of that meeting must be taken immediately. A poll demanded on any other resolution must be taken in the manner and at the time and place the chairperson directs. The result of a poll demanded on a resolution of a meeting of Members is a resolution of that meeting. A demand for poll on a resolution of a meeting of Members does not prevent the continuance of that meeting or that meeting dealing with any other business.

57. Subject to the Corporations Act, the chairperson may adjourn a meeting of Members to any day, time and place, and must adjourn a meeting of Members if the Members present with a majority of votes that may be cast at that meeting agree or direct the chairperson to do so. The chairperson may adjourn that meeting to any day, time and place. The Company is only required to give notice of a meeting of Members resumed from an adjourned meeting if the period of adjournment exceeds 21 days. Only business left unfinished is to be transacted at a meeting of Members resumed after an adjournment.
58. Subject to the Corporations Act, the Directors may at any time postpone or cancel a meeting of Members by giving notice not less than 5 Business Days before the time at which the meeting was to be held to each person who is, at the date of the notice a Member, a Director or Alternate Director; or auditor of the Company. A general meeting called by the Directors at the request of Members or called by the Members must not be cancelled by the Directors without the consent of the Members who requested or called the meeting.
59. Subject to this Constitution and any rights or restrictions attached to a class of Membership, at a meeting of Members, every Member present has one vote on a show of hands and on a poll.
60. In the case of an equality of votes on a resolution at a meeting of Members, the chairperson of that meeting does not have a casting vote on that resolution either on a show of hands or on a poll.
61. A member present at a meeting of Members is not entitled to vote on any resolution if any fees or any other amount due and payable by that Member to the Company under this Constitution have not been paid, or where that vote is prohibited by the Corporations Act or an order of a court of competent jurisdiction. The Company must disregard any vote on a resolution purported to be cast by a Member present at a meeting of Members where that person is not entitled to vote on that resolution.
62. An objection to the qualifications of any person to vote at a meeting of Members may only be made at that meeting (or any resumed meeting if that meeting is adjourned), to the chairperson of that meeting. Any objection must be decided by the chairperson of the meeting of Members, whose decision, made in good faith, is final and conclusive.
63. A Member, who is entitled to attend and cast a vote at a meeting of Members, may vote on a show of hands and on a poll in person.
64. A proxy, attorney or representative of a Member need not be a Member. A Member may appoint a proxy, attorney or representative for all or any number of meetings of Members, or a particular meeting of Members.

65. An instrument appointing an attorney or representative must be in a form as the Directors may prescribe or accept. An instrument appointing a proxy is valid if it is signed by the Member making the appointment and contains the name and address of that Member, the name of the Company, the name of the proxy or the name of the office of the proxy, and the meetings of Members at which the proxy may be used. The chairperson of a meeting of Members may determine that an instrument appointing a proxy is valid even if it contains only some of this information.
66. Subject to the Corporations Act, the decision of the chairperson of a meeting of Members as to the validity of an instrument appointing a proxy, attorney or representative is final and conclusive.
67. If the name of the proxy or the name of the office of the proxy in a proxy form of a Member is not filled in, the proxy of that Member is the person specified by the Company in the form of proxy in the case the Member does not choose, or if no person is so specified, the chairperson of that meeting.
68. A Member may specify the manner in which a proxy or attorney is to vote on a particular resolution at a meeting of Members. The appointment of a proxy or attorney by a Member may specify the proportion or number of the Member's votes that the proxy or attorney may exercise.
69. Pursuant to s249Y(2) Corporations Act 2001, a proxy appointed to attend a meeting and vote on behalf of a member will not be entitled to vote on a show of hands.
70. Unless otherwise provided in the Corporations Act or in the appointment, a proxy or attorney may demand or join in demanding a poll or any resolution at a meeting of Members on which the proxy or attorney may vote.
71. An appointment of proxy or attorney for a meeting of Members is effective only if the Company receives the appointment (and any authority under which the appointment was signed or a certified copy of the authority) before the time scheduled for commencement of that meeting (or any adjournment of that meeting).
72. Unless the Company has received notice in writing of the matter before that time scheduled for the commencement of a meeting of Members, a vote cast at that meeting by a person appointed by a Member as a proxy, attorney or representative is, subject to this Constitution, valid even if, before the person votes there is a Transmission Event in respect of that Member, that Member revokes the appointment of that person or that Member revokes the authority under which the person was appointed by a third party.

---

## Members

73. Any person is eligible to apply to become a Member. Each applicant to become a Member must sign and deliver to the Company an application in the form which Directors determine and pay an annual fee of \$275.00 (inclusive of GST) or which the Directors may determine from time to time. The Directors determine whether an application may become a Member. The Directors are not required to give any reason for the rejection of any application to become a Member.
74. If an application to become a Member is accepted, the Company must give written notice of the acceptance to the applicant and enter the applicant's name in the Register. If any application to become a Member is rejected, the Company must give written notice of the rejection to the applicant and refund in full the fee (if any) paid by the applicant.
75. The rights of being a Member are not transferable whether by operation of law or otherwise.
76. A person will cease to be a Member if the Member resigns in accordance with Clause 68, if the Member is expelled under Clause 69 or Clause 70, or if a Cessation Event occurs in respect of that Member. The estate of a deceased Member is not released from any liability in respect of that person being a Member.
77. A member may resign as a Member by giving the Company notice in writing. Unless the notice provides otherwise, a resignation by a Member takes effect immediately on the giving of that notice to the Company.
78. Subject to Clause 71, the Directors may resolve to expel a Member if:
- (a) an Expulsion Event occurs in respect of the Member; and
  - (b) the Company gives that Member at least 10 Business Days notice in writing stating the Expulsion Event and that the Member is liable to be expelled, and informing the Member of its rights under Clause 89.
79. The Directors may resolve to expel a Member if the Member does not pay a fee payable by the Member pursuant to this Constitution within 20 Business Days after the due date for its payment.
80. Before the passing of any resolution under Clause 69, a Member is entitled to give the Directors, either orally or in writing, any explanation or defence of the Expulsion Event the Member may think fit.

81. Where a resolution is passed under Clause 69 or 70 the Company must give that Member notice in writing of the expulsion within 10 Business Days of the resolution.
82. A Member may by notice in writing to the Company within 10 Business Days of receipt of the notice referred to in Clause 72, request that a resolution under Clause 69 be reviewed by the Company at the next general meeting. If such a request is made, the Directors must propose at the next general meeting of the Company that a resolution be moved to confirm the expulsion of the Member concerned.
83. A resolution under Clause 69 takes effect:
  - (a) if the Member gives a notice under Clause 73, the date (if any) the resolution is confirmed by a general meeting of the Company; or
  - (b) if the Member does not give a notice under Clause 73, the date of the resolution.
84. A resolution under Clause 70 takes effect on the date of the resolution.
85. The Directors may reinstate an expelled Member on any terms and at any time as the Directors resolve, including a requirement that all amounts due but unpaid by the expelled Member are paid.
86. Subject to the Corporation Act and the terms of a particular class of Membership, the Company may vary or cancel rights attached to being a Member of that class, or convert a Member from one class to another, by special resolution of the Company and either:
  - (a) a special resolution passed at a meeting of the Members included in that class; or
  - (b) the written consent of members who are entitled to at least 75% of the votes that may be cast in respect of Membership of that class.

The provisions in this Constitution concerning meetings of Members (with the necessary changes) apply to a meeting held under Clause 77(a).

87. The Company may issue to each Member, free of charge one certificate evidencing that person as a Member.
88. The Company may issue a replacement certificate of being a Member if the Company receives and cancels the existing certificate or the Company is satisfied that the existing certificate is lost or destroyed, and the Member pays any fee as the Directors resolve.

---

## Fees

89. The Directors may require the payment of fees or levies by Members in the amounts and at the times as the Directors resolve. The Directors may make fees payable for one or more Members for different amounts and at different times, and subject to the terms of Membership payable by instalments. The Directors may revoke or postpone fees or extend the time for payment of fees.
90. The Company must give Members at least 10 Business Days notice of fees payable by Members. A notice of fees must be in writing and specify the amount of the fee, and the time and place of payment of the fee. A fee is not invalid if a Member does not receive notice of the fee.
91. A Member must pay to the Company the amount of each fee made on the Member at the times and places specified in the notice of the fee. If a fee is payable in one or more fixed amounts on one or more fixed dates, the Member must pay to the Company those amounts on those dates.
92. A Member must pay to the Company interest at the rate of 10% per annum on any amount referred to in Clause 82 which is not paid on or before the time appointed for its payment, from the time appointed for payment to the time of the actual payment, and expenses incurred by the Company because of the failure to pay or late payment of that amount. The Directors may waive payment of all or any part of an amount payable under this Clause 83.
93. The Company may recover an amount due and payable under Clause 83 and 84 from a Member by commencing legal action against the Member for all or part of the amount due.
94. The debt due in respect of an amount payable under Clauses 83 and 84 is sufficiently proved by evidence that the name of the Member sued is entered in the Register and there is a record in the minute books of the Company of the resolution requiring payment of the fee or the fixed amount referred to in Clause 83.
95. The Company may accept from any Member all or part of fees payable before that amount is due and payable. The Company may pay interest at any rate the Directors resolve on the amount paid before it is due and payable (from the date of payment until and including the date the amount becomes actually payable) and the Company may repay the amount so paid to that Member.

---

## Notices and Payments

96. The Company may give notice to a Member in person, by sending it by post to the address of the Member in the Register or the alternative address (if any) nominated by that Member, or by sending it to the fax number or electronic address (if any) nominated by that Member.
97. A notice of meeting sent by post to an address within Australia is taken to be given one Business Day after it is posted, or where to an address outside Australia, is taken to be given 5 Business Days after it is posted. Any other notice sent by post is taken to be given at the time of which the notice would be delivered in the ordinary course of post. A notice sent by fax is taken to be given on the Business Day it is sent, provided that the sender's transmission report shows that the whole notice was sent to the correct fax number.
98. The giving of a notice by post is sufficiently proved by evidence that the notice was addressed to the correct address of the recipient and was placed in the post.
99. The Directors may decide, generally or in a particular case, that a notice given by the Company be signed by mechanical or other means.
100. The Company may pay a person entitled to an amount payable in respect of Membership by crediting an account nominated in writing by that person, by cheque made payable to the bearer, to the person entitled to the amount or any other person the person entitled directs in writing, or by any other manner as the Directors resolve. The Company may post a cheque under this Clause to the address in the Register of the Member or to any other address which that person directs in writing.

---

## Records

101. The Company must keep minute books in which it records within one month:
  - (a) proceedings and resolutions of meeting of Members;
  - (b) proceedings and resolutions of meetings of the Directors (including meetings of committees of Directors);
  - (c) resolutions passed by Members without a meeting; and
  - (d) resolutions passed by the Directors without a meeting.

102. The Company must ensure that minutes of a meeting are signed within a reasonable time after the meeting by the chairperson of that meeting or the chairperson of the next meeting. The Company must ensure that minutes of a meeting of the passing of a resolution without a meeting are signed by a Director within a reasonable time after that resolution is passed. A minute recorded and signed in accordance with this Clause is evidence of the proceeding or resolution to which it relates, unless the contrary is proved.
103. The Company must establish and administer the Register in accordance with the Corporations Act. The Company may establish and administer a branch register of Members in accordance with the Corporations Act. The Company must allow inspection of the Register only as required by the Corporations Act. Unless proved incorrect, the Register is sufficient evidence of the matters shown in the Register.
104. The Company must keep the financial records required by the Corporations Act.
105. Unless authorised by a resolution of Directors or the Corporations Act, a Member is not entitled to inspect the books of the Company.

---

## **Winding Up**

106. Upon a winding up, the surplus assets of the Company after satisfaction of all debts and other liabilities of the Company, shall be paid or transferred to Penrith City Council towards objectives similar in whole or in part to those of the Company.