



# **BUSINESS PAPER**

## **Policy Review Committee Meeting**

**22 September 2003**

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 22 September 2003 at 7.00pm.

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

Yours faithfully,

**Alan Travers**  
**General Manager**

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

**1. APOLOGIES & LEAVE OF ABSENCE**

*Leave of absence has been granted to:*

*Councillor Simat for the period 15 September to 5 October 2003 inclusive*

*Councillor Fowler for the period 19 September to 4 October 2003 inclusive*

*Councillor O'Neill for the period 15 September to 23 September 2003 inclusive.*

**2. CONFIRMATION OF MINUTES**

*Policy Review Committee – 8 September 2003*

**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**

*Road Safety Steering Committee – 27 August 2003*

**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, Mr Steve Hackett on (02) 4732 7637*

**POLICY REVIEW COMMITTEE MEETING**

**MONDAY 22 SEPTEMBER 2003**

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**PENRITH CITY COUNCIL**  
**MEETING CALENDAR**  
**September – December 2003**

	TIME	SEPT	OCT	NOV	DEC
		Mon	Mon	Mon	Mon
Ordinary Meetings	7.00 pm			3	1
		29	27	17#	15
Policy Review Committee	7.00 pm	22	20		8

**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, Steve Hackett on 47327637.**

# Meetings at which the Management Plan quarterly review is tabled and discussed.

\* Meeting at which the Management Plan for 2002/2003 is adopted.

**UNCONFIRMED MINUTES**  
**OF THE POLICY REVIEW COMMITTEE MEETING OF PENRITH CITY**  
**COUNCIL HELD IN THE COUNCIL CHAMBERS, PENRITH**  
**ON MONDAY 8 SEPTEMBER 2003 AT 7.07 PM**

**PRESENT**

His Worship the Mayor Councillor Greg Davies, Councillors J Aitken, D Bradbury, R Fowler, J Greenow, A Khan, C O'Toole, K Paluzzano, P Sheehy, S Simat, and J Thain.

**APOLOGIES**

PRC 84       RESOLVED on the MOTION of Councillor Greenow seconded Councillor Fowler that apologies be received and accepted from Councillors J Bateman and C O'Neill.

**LEAVE OF ABSENCE**

Councillor D Bailey has previously been granted leave of absence for the period 29 September - 20 December 2003 .

Councillor G Evans has previously been granted leave of absence for the period 25 August – 15 September

**CONFIRMATION OF MINUTES**

**Policy Review Meeting – 25 August 2003**

PRC 85       RESOLVED on the MOTION of Councillor Bradbury seconded Councillor Sheehy that the minutes of the Ordinary Meeting of 25 August 2003 be confirmed with the following amendments:

*page 3 reads:*

*Councillor Bradbury asked whether there had been any focus on affordable housing, such as looking at smaller lot sizes and higher density.*

*Mr Jones said that it was not necessarily that simple, Affordability was a major issue but the biggest problem was the lack of land supply.*

*To be amended to read:*

*Councillor Bradbury asked whether Department of Infrastructure, Planning and Natural Resources simply equated affordable housing with smaller lot sizes or whether there were other factors that were relevant that the presentation seemed to ignore.*

*Mr Jones said that it was not necessarily that simple, but as a result of the lack of land supply, the size of a lot is clearly a significant factor as far as affordability is concerned.*

**DECLARATIONS OF INTEREST**

No declarations of interest.

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**This is Page No 1 of the Unconfirmed Minutes of the Policy Review Committee of Penrith City Council held on Monday 8 September 2003**



operating expenditure, operating revenue, debt service ratio and performance indicators for Penrith City Council and Local Government Managers Association.

PRC 88           RESOLVED on the MOTION of Councillor Fowler seconded Councillor Sheehy

That:

1. The information relating to Council's financial statements be noted
2. Pursuant to S415 it is the Council's opinion that:
  - (a) The financial statements and schedules have been drawn up in accordance with the Local Government Act 1993 and Regulations, the Local Government Code of Accounting Practice and Financial Reporting, the Local Government Asset Accounting Manual, and Australian Accounting Standards. The Code requires a phasing in of the new accounting requirements
  - (b) Apart from the non-recognition of land under roads as required by the phasing process, the statements comply with Australian Statements of Accounting Concepts
  - (c) The financial statements present fairly the Council's financial position as at 30 June 2003 and the operating result for the year then ended
  - (d) The statements are in accord with Council's accounting and other records.
3. Pursuant to clause 21 of the Local Government Financial Management Regulation it is the Council's opinion that:
  - (a) The accompanying Special Purpose Financial report has been drawn up in accordance with the Local Government Act 1993 and Regulations, the Local Government Code of Accounting Practice and Financial Reporting, and the requirements of National Competition Policy. The Code requires the inclusion of various charges and subsidies which are not actually paid or payable
  - (b) The report is a special purpose report and is not required to comply with Australian Accounting Standards. The above legislative requirements differ from Australian Accounting Standards and hence the report does not comply with Australian Accounting Standards
  - (c) The financial statements present a modelled scenario for comparative purposes. They do not report an actual result.
4. Council confirms its endorsement of the budget in the knowledge that some of its business activities are not making commercial returns. The existence of notional subsidies represents Council's commitment to its community service obligations
5. The Statements be forwarded to Council's Auditors
6. Abandonments for 2003 as detailed be written off
7. The balance of stores and materials be adjusted in the stores and materials registers in accordance with the various write-offs.
8. Council officers be congratulated for the clarity of the documentation provided.

**3 Council's next Strategic Plan and Management Plan 36/39**

PRC 89 RESOLVED on the MOTION of Councillor Fowler seconded Councillor Simat

That:

1. The terms of Council's present Strategic Plan and 4-year Strategic Program be extended to 30 June 2005
2. Council's 2004-2005 Management Plan be developed under the extended Strategic Plan and Program, with arrangements to be made in the terms discussed in this report
3. The formulation of Council's next Strategic Plan and Program be undertaken in the second half of 2004, to take effect from 1 July 2005.

**4 Key Issues for the Extended Strategic Program 36/27**

PRC 90 RESOLVED on the MOTION of Councillor Fowler seconded Councillor Simat that the information be received.

**QUESTIONS WITHOUT NOTICE**

Councillor Greenow requested leave of absence from 12 September 2003 to 21 September 2003 and Councillor Simat requested leave of absence from 15 September 2003 to 5 October 2003.

The Mayor ruled that it was an urgent matter and should be dealt with at the meeting.

PRC 91 RESOLVED on the MOTION of Councillor Sheehy seconded Councillor Fowler that leave of absence be granted to Councillor Greenow for the period 12 September 2003 to 21 September 2003 inclusive and to Councillor Simat for the period 15 September 2003 to 5 October 2003 inclusive.

Councillor Greenow extended appreciation to the Council officers who assisted in the St Marys Spring Festival.

Council Fowler requested leave of absence from 19 September 2003 to 4 October 2003 as he will be undertaking Council business representing Wespool.

The Mayor ruled that it was an urgent matter and should be dealt with at the meeting.

PRC 92 RESOLVED on the MOTION of Councillor Greenow seconded Councillor Sheehy that Council Fowler be granted leave of absence from 19 September 2003 to 4 October 2003

There being no further business the Chairperson declared the meeting closed the time being 8.06 PM.

## Report and Recommendations

**Committee:** Road Safety Steering Committee  
**Date:** Wednesday 27 August 2003  
**Chairperson:** Lindsay Clarke, Road Network Services Engineer  
**Declarations of Interest:** None

The Committee met at 10:00am and concluded at 1:45pm and made the following recommendations.

### Master Program Reports

**1 Road Safety Action Plan Update - Graduated Licensing Scheme Workshops 9019/23**

#### RECOMMENDATION

That the committee note the information in the report.

**2 Road Safety Action Plan Update - Speed Prevention Program 9019/34**

#### RECOMMENDATION

That the committee note the information in the report.

## **MASTER PROGRAM REPORTS**

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## **THE CITY AS A SOCIAL PLACE**

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## **The City as a Social Place**

### **1 Proposal for new rowing facility at Weir Reserve**

**3081/1 Pt3**

**Compiled and Authorised by:** **Raphael Collins, Parks Construction & Maintenance Manager**  
**Gary Dean, Facilities Operations Manager**

**Management Plan 4 Year Outcome:** *Community recreation facilities and services in new and established areas meet contemporary needs.*

**Critical Action:** *Optimise recreation opportunities from Penrith Lakes, Nepean River and former ADI site.*

#### **Purpose:**

*The purpose of this report is to consider a proposal from representatives of the University of Technology, Sydney Union, University of Technology Sydney Rowing Club and Sydney Boys High School Foundation to establish a centre of excellence for rowing and canoeing at Weir Reserve. The report recommends support be given to this proposal.*

*Representatives of the group will be at the meeting tonight to make a short presentation.*

#### **Background**

Approximately two years ago, representatives of the University of Technology Rowing Club and Sydney Boys High School Foundation met with Council officers to discuss opportunities for suitable land for a boat house and launching area near the Nepean River.

For the past ten years or more it has been apparent that Sydney Harbour and its many waterways, are becoming less able to sustain rowing activities at any level of expertise from novice to elite level. Extensive foreshore development together with a rapid increase in commercial water traffic, particularly passenger ferries, has transformed the Parramatta River and Sydney waterways into a hostile environment for rowing both for teaching school rowers and Olympic level training alike. Prevailing weather conditions have perpetually restricted rowing. Windy unprotected waters usually limit rowing training to the early hours of the morning. An increasing number of school rowing crews and support craft use the waterways. At present there are more than two hundred school rowers based at Leichhardt and Drummoyne clubs alone. Crews from St Josephs, Shore, Sydney Boys, Sydney Girls and SCEGGS Darlinghurst schools also use the Iron Cove area.

Leichhardt, Balmain, Drummoyne and UTS clubs, veterans, elite rowers and coaches in speedboats add to the busy stretch of water inside the 1900m mark of the Iron Cove Bridge. UTS Rowing Club has for the past five years been endeavouring to locate a suitable base for training outside Sydney waterways, maintaining its present venue at Haberfield as its primary place of rowing. At the 2000 Olympics they provided thirteen athletes and two coaches to the Australian Rowing Team, 25% of the entire team.

The protected waters of the Nepean River at Penrith are considered by the Club to be ideal training water for all athletes but particularly those at an elite level. This is due to the long stretches of clear water from the rowing club to Erskine Creek.

In 1998 UTS Rowing Club commenced searching for suitable land for a boat house and launching area near the Nepean River. Requests were made at that time to Penrith City Council for assistance in locating land for that purpose. In 2001, a further deteriorating rowing environment in the Parramatta River led both the UTS Rowing Club and its sporting

associate Sydney Boys High School to again search for a suitable rowing venue on the Nepean River and were advised by Council officers to consider the Weir Reserve area after they had been looking at options beyond the freeway bridge near the water ski boat ramp.

The protected waters of the Nepean River offer ideal conditions for training. The Regatta Centre is near perfect for competition however, it is inadequate for training. Hence, the UTS Rowing Club and its sporting associates Sydney Boys High School would like to establish a centre of rowing in the vicinity of the existing Nepean Rowing Club.

The representatives of these rowing fraternities were advised to seek the support from the Board of the Nepean Rowing Club. After many months of talks, Nepean Rowing have now joined forces with UTS Rowing seeking Councils 'in principle' support for the establishment of new rowing facilities at Weir Reserve.

### **The proposal**

The proponents wish to establish a rowing centre of excellence by constructing a facility that would contain:

- Boat storage facilities
- Meeting and multi purpose rooms
- Small dormitory
- Offices and amenities.

Additional parking would also need to be provided to accommodate vehicles and trailers.

The building would be about three times the size of the existing rowing shed and located immediately east of the existing rowing storage shed. The exact location and details of the facility are yet to be determined, however, it may be necessary to consider re-alignment of the access road and connectivity with the Nepean Rowing Club and future of the existing boat storage shed.

### **The Centre would include the following:**

- The centre will provide training programs for clubs and community participants.
- The centre will promote community rowing activities particularly for schools.
- State and GPS rowing programs.
- Administrative base for national and state bodies governing rowing.
- Community boat hire and storage.
- Other sporting and cultural uses supported by and serving the local community.

### **Issues to be considered**

The following are issues Council will need to consider in determining its support or otherwise for the proposal.

### **Suitability of the site**

The Nepean River has long been recognised as an international venue for rowing. More recently that has probably been replaced by the Sydney International Regatta Centre.

Council's Strategic Plan has a focus on our "international standard sporting facilities" and "fostering centres of sporting excellence" – a situation which is clearly emerging at the Sydney International Regatta Centre. However it must be recognised that the Sydney International Regatta Centre has limitations. That venue is undoubtedly the "centre of excellence for competition", but is limited with respect to training.

Weir Reserve is considered to be appropriate for the establishment of this new facility given its proximity to the river and the rowing infrastructure already present. The future 'great river walk' would provide the ready connection with the Sydney International Regatta Centre.

### **Planning controls/Designs**

The design of the building will be important at this location. The plans that have been submitted are not detailed enough to provide a finer level of comment at this stage. Just some of the issues that we would be focusing upon include provision of parking to meet the anticipated demand, the design qualities of the development given the scenic significance of the location, and the proposed landscaping.

### **Land tenure**

Under Council's Plans of Management the land is classified as "Community" and is dedicated as Public Reserve. Council cannot sell the land with this classification and is unable to grant a lease or licence for a period exceeding twenty-one (21) years. A term below twenty-one (21) years can be considered providing it is in accordance with the provisions of the Plans of Management.

If Council is to consider a lease or licence exceeding five (5) years it is required to call tenders on the site if the applicant is regarded as a profit organisation. The tender process is not required for a term exceeding five (5) years for a lease or licence if the applicant is a non-profit organisation.

A consultation process is required in terms of public notice, exhibition of the proposal on the land and with the community in proximity of the proposal.

To exceed the term of twenty-one (21) years for a proposed lease or licence or even consider selling the land, then a reclassification is required from "Community" to "Operational".

The reclassification is a lengthy process. It does involve the making of a L.E.P., which amends an existing L.E.P. changing the land classification. The zoning should also require investigation for permitted uses of such proposal.

Further investigations and consultation will be required to determine the appropriate land tenure in terms of lease, licence or sale encompassing the proposal and Council will be informed if support in principal to the project is given.

### **Funding of the project**

The submission does not address how the project will be funded although it is understood there will be no financial demands on Council. It is further understood the group does have some funds which will be supplemented by Government Grants if the project was to progress.

An indicative cost of the overall project will be in excess of \$1million.

### **Traffic/parking**

Access to Weir Reserve at present is via the Bruce Neale Drive Railway under pass. There is only a short section of road (20 metres) between the underpass and the intersection with the Great Western Highway. This situation will change significantly in the future if the Jane Street extension, adjacent to the main western railway line, proceeds. Initial indications from the Arterial Road Study, recently commissioned by Council and the RTA, are that Jane Street

would be extended to Victoria Bridge and access to Weir Reserve will require further examination.

The area proposed for the building presently accommodates car parking associated with existing rowing related activities. This proposal will need to satisfy its own car parking demands as well as replace those existing spaces displaced by this new building.

### **Plans Of Management**

Throughout the city we already have in train specific Plans of Management for community land. Such a plan is required for the Weir Reserve site which is planned to occur in the near future. Preparation of this Plan of Management will need to be accelerated in light of this proposal. It will be important to ensure that the compatibility with proposed development is the objectives of the Plans of Management for this area.

### **Other users and stakeholders**

The Weir Reserve presently accommodates a number of other users. The capacity of the precinct to accommodate existing users and the proposed development warrants serious consideration.

### **Justification for the project**

The proponents of this 'rowing centre of excellence' believe this facility will be a major benefit to the community. The interest in rowing by schools is increasing and the centre will only foster the sport of rowing.

### **Conclusion**

The potential of the Nepean River for rowing is largely untapped. The existing facilities at Weir Reserve are inadequate for anything more than local activities. The new centre for excellence will generate utilisation of the River for rowing and kayaking, (mainly training.)

The proposed facilities will also provide much needed space for storage which has currently reached a saturation point. The proposal offers a unique opportunity to improve the amenity of this precinct. The group have also mentioned they will assist Council with the ongoing harvesting of the aquatic weeds.

It is important to note the proponents of the centre have gained the support of the Board of Nepean Rowing which underscores the need for improved rowing facilities at Weir Reserve.

This report has addressed a number of issues which will need to be addressed by the proponents in more detail. Before doing so the group is seeking Council's attitude towards the project. From an initial assessment this proposal is one which is considered to have merit and as such is worthy of support.

Representatives of the group will be at the meeting tonight to make a short presentation.

**RECOMMENDATION**

That:

1. Council receive the report and presentation from representatives of the University of Technology, Sydney Union, University of Technology Sydney Rowing Club and Sydney Boys High School Foundation regarding the proposal for a new centre of sporting excellence at Weir Reserve
2. Proponents be advised that Council supports in principle the project and that further investigations continue as outlined in this report.



## **The City as a Social Place**

### **2 Penrith Regional Gallery & Lewers Bequest - Capital Improvement Masterplan**

**23/55**

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

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

<b>Management Plan 4 Year Outcome:</b> <i>The City's cultural profile has been raised.</i>
<b>Critical Action:</b> <i>Promote the City as a centre of cultural excellence.</i>

#### **Purpose:**

*To receive a presentation from the Consultant Architect on the development of the master plan for capital improvements at the Gallery.*

*The report recommends endorsement of the scope and nature of the improvements.*

#### **Background**

In January last year the Premier of NSW announced \$1.65 million funding from the NSW Government for Council to undertake a program of works at the Penrith Regional Gallery and Lewers Bequest. Council subsequently accepted the terms of that grant and the funds were forwarded to Council.

The program for which the funding has been given involves infrastructure upgrade, renovation and refurbishment of the various Gallery buildings and gardens. This program aims to revitalise the physical amenity, structure and operation of the Gallery.

There was a need for Council to engage specialised architectural services to provide guidance and advice to Council for this program of new works. In this regard a brief was prepared and formal tenders invited from suitably qualified architectural consultants.

That tender process resulted in 12 submissions which were subsequently shortlisted for interview. A report to Council on 1 July 2002 advised of the outcomes of the interview process.

Council agreed to engage Peddle, Thorp and Walker, architects for professional services at the Gallery.

A project control group has been formed, consisting of representatives of the Gallery Board and relevant staff of the Gallery and Council.

#### **Current Situation**

Following consultation with a range of identified stakeholders the Architects prepared a conceptual plan of recommended capital improvements. Those initial plans have been revised and refined to clearly address the priority areas identified, which include:-

- Restoration / refurbishment of Lewers House and Ancher House
- A new entrance gateway and canopy
- Upgrading in the Regional Gallery
- Construction of an internal courtyard canopy
- Upgrade administration area
- Enhanced external lighting
- Improved signage.

The Architects are now preparing a development application in consultation with Council officers.

The Architects and the Chairman of the Gallery Board, the Hon Peter Anderson, AM will make a short presentation to Council tonight on the proposed capital improvement program.

### **RECOMMENDATION**

That Council receive the presentation and endorse the proposed capital improvement program at the Penrith Regional Gallery and Lewers Bequest.



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## **COUNCIL'S OPERATING ENVIRONMENT**

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## **Council's Operating Environment**

### **3 Service Specification Program - Service Reviews**

**36/35**

**Compiled by:** Keith Cooper, Service Specification Officer

**Authorised by:** Helen Lowndes, Corporate Development Manager

**Management Plan 4 Year Outcome:** *Appropriate services are selected, based on their relevance to Council's customer requirements and benefit to the community.*  
**Critical Action:** *Adopt 'best-practice' and measurable service specifications for all Council services.*

#### **Purpose:**

*To provide Council with the opportunity to assess and approve the following Service Specifications.*

- 1. Services Marketing Service*
- 2. Mapping Information Service*
- 3. Risk Management Service*
- 4. Insurance Service*

*Given the size of the above documents, hardcopies are provided to Councillors as a separate document. All other persons requiring a copy of any or all of these documents are advised to contact Keith Cooper, Service Specification Officer on 4732 7557.*

#### **Assessment and Review Principles and Guidelines**

The aim of the assessment and review process is to ensure that each draft specification accurately communicates the existing levels of service and activities that the service is meant to provide in terms of quantity, quality and cost to Council. Once approved by Council the draft would become a fully adopted specification to be used as a basis for future changes to services levels, calls for additional resourcing or for changes in priority setting within an existing service.

#### **Amended Assessment and Review Process**

As adopted at the Policy Review Committee meeting on 24 February, all completed draft service specifications will be reported directly to Policy Review Committee for consideration and adoption. Where requests for additional information are made or where further consideration is required resulting in a specific specification not being adopted at that meeting, then they would be referred to the Services Review Working Party. This working party would be scheduled to meet every quarter or as when required.

At the Services Review Working Party meetings staff directly involved in the development of their service specification can address specific issues raised during earlier Policy Review Committee meetings. Recommendations or other issues from the Services Review Working Party would then be reported to the next Ordinary or Policy Review Committee meeting for adoption.

## **RECOMMENDATIONS**

That:

1. The information contained within the Service Specification Program – Service Reviews Report be received.
2. The Specifications for Services Marketing, Mapping Information, Risk Management and Insurance be adopted.



## **Council's Operating Environment**

### **4 Proposed amendments to the Local Government Act.**

**754/3 Pt 11**

**Compiled by:** Glenn Schuil, Internal Auditor

**Authorised by:** Stephen Britten, Legal Officer

<b>Management Plan 4 Year Outcome:</b> <i>Effective corporate governance has been maintained.</i>
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<b>Critical Action:</b> <i>Undertake effective local government.</i>
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#### **Purpose:**

*To advise Council of proposed amendments to the Local Government Act, and the background behind these proposals.*

#### **Background**

The Presidents of both the Local Government Association of NSW & the Shires Association of NSW wrote a letter to the Mayor dated 9 September 2003 advising of proposed amendments to the Local Government Act. It is understood that the Minister for Local Government, the Hon Tony Kelly MLC recently met with the above Presidents where he advised that as part of the current reform process, he is preparing legislative amendments on a range of issues, including:-

- Strengthening and standardising the existing Code of Conduct, and giving the Code some legislative backing;
- Considering the extension of the term of office for Mayors elected by the Councillors from the current one year term to two years;
- Strengthening Section 12 of the Local Government Act to overcome current disparity between this Section (availability of documents to the public and Councillors) and the Freedom of Information Act;
- Introduction of a "sin-bin" for Councillors alleged to have been involved in disorderly conduct".

#### **Current Situation**

Some of the above proposed changes to the Local Government Act 1993 have been on the agenda by the State Government for a number of years. Having said that, the Internal Auditor spoke with Mr Paul Chapman, Director of Legal, Policy & Special Program at the Department of Local Government for the purpose of trying to obtain some specific information as to the background behind the proposed legislative amendments. Mr Chapman advised that he was unable to provide specific information as this may breach the confidentiality of information gained through Cabinet Committees.

The following information is made available for the benefit of Councillors on the proposed legislative amendments:-

#### **Code of Conduct**

There has been questions raised by the local government industry since the introduction of the Local Government Act 1993 about the adequacy of the issues impacting on a Council's Code of Conduct. Section 440 of the Act currently states that "Every council must prepare or

adopt a code of conduct to be observed by councillors, members of staff of the council and delegates of the council.

ICAC's Report into "Corrupt conduct associated with development proposals at Rockdale City Council" under the Heading "Need for reform" stated that areas that ICAC intends to look at over the next twelve months include "guidelines for an extended code of conduct to cover councillors role and better non-pecuniary conflict of interest guidelines for councillors".

A recommendation made within the Commissioner's Report into the Public Inquiry into Warringah Shire Council was "That the Code of Conduct be enforced, and that sanctions be applied for breaches of the Code of Conduct". The background to this recommendation was that "Until and unless Councillors abide by the Code, and until and unless sanctions are applied for breaches of the Code, public confidence in, and respect for, office holders will stay at a lower In connection with the Code of Conduct the Commissioner has provided a number of recommended actions, including:-

- Emphasising in Section 440 of the Act that the Code of Conduct is an overriding code which affects all dealings by councillors, members of staff and delegates;
- Amending Section 440 of the Act to require that councillors, members of staff and delegates comply with the Code of Conduct, upon the basis that a breach of the Code constitutes a breach of the Act;
- Providing a statutory penalty scheme for breaches of the Code of Conduct, or for the failure of the Mayor or the Public Officer to enforce the Code; and
- Providing an independent scrutiny of allegations of breaches of the Code of Conduct".

#### **Comment**

It is considered that if the Code of Conduct is strengthened and given legislative backing it would assist in raising the awareness of the Code throughout the local government industry. Presently there is some doubt of the Code's status with regard to sanctions and this proposed legislative amendment would clear up that situation.

It is considered that Penrith City Council's Code of Conduct that was adopted by the Council on 2 July 2001 is a robust document. In accordance with the provisions of the Local Government Act 1993, the Council's Code of Conduct will be reviewed within the first twelve months after the the next ordinary election which is scheduled for 27 March 2004.

#### **Extending the terms of Office of a Mayor**

Regarding the proposal to extend the term of office for a Mayor the only reference to this issue within the Commissioner's Report is a statement that "A single year is too short a time for effective programs to be put in place".

There is no other comment made within the Warringah Public Inquiry Report that gives an insight into the background for this recommendation to be legislated.

#### **Comment**

There seems to be some merit to the argument to extend the term of the Mayor. This should be balanced having regard to the workload that is required from a person who is the Mayor during that period.

#### **Strengthening Section 12 of the Local Government Act**

A Parliamentary Committee issued a Report in December 2002 that looked into the access to information. The Committee had its genesis as a result of comments made by the NSW Ombudsman about the access to documents, and the confusion that exists due to the proliferation of access to information regimes.

Currently there are four separate Acts which make laws with respect to accessing documents, namely the Freedom of Information Act 1989, the Privacy and Personal Information Protection Act 1998, the Local Government Act 1993 and the State Records Act 1998.

The above Report states that “The initial focus of any review should be to identify the extent of those problem areas which need improvement or reform, in an effort to streamline the schemes and bring consistency to their operation....This approach is supported by the Privacy Commissioner [former] who concluded his submission by stating ‘I support a more detailed review of the appropriate provisions of the three pieces of legislation to minimise areas of inconsistency’.

In addition to the above comments, in the Warringah Public Inquiry Report, the Commissioner recommended that “The Act [Local Government Act] be amended to make clear its relationship with the Privacy and Personal Information Protection Act”.

### **Comment**

There presently is some confusion between the relationship between the Local Government Act (LGA) and the Freedom of Information Act (FOIA). It would be in local government’s interest that subject to appropriate amendment that the LGA and the FOIA be clearly contemplated within the legislation.

Having said this, Council officers would need to consider the form of any draft changes to the legislation before a recommendation can be made to the Council about any proposed legislative changes.

It should be noted that Penrith City Council has adopted a philosophy of allowing the public access to information on a wide basis, and it is considered that members of the public are accessing information adequately under the existing procedures.

### **Introduction of a “sin-bin”.**

The proposed amendment to the Local Government Act to introduce a “sin-bin” has not evolved as a result of the recent Warringah Shire Council Public Inquiry. Councillors may recall that the origin of this proposal stems from the previous Minister for Local Government Harry Woods in a speech that he made to Legislative Assembly of Parliament on 6 March 2001.

Following the then Minister’s speech, on 19 March 2001 the Department of Local Government issued a Circular to all councils advising of the Minister’s intention to introduce a series of measures that were designed to improve councillor behaviour. The Circular went on to say that “One option to be considered is a mechanism to ‘sin-bin’ individual councillors. Obviously, any such proposal would have to be quick, fair and independent. This would be intended for situations where the ongoing actions of individual councillors seriously disrupts the functioning of Council and frustrates the rights of ratepayers to an efficient, cost effective and operational council”.

In relation to the concept of a “sin-bin” the Associations have advised the Council that this proposal has been considered by both Associations at the Joint Committee Meeting held on 4 September 2003. On this issue the Committee “considered that local government should create a Local Government Disciplinary Tribunal from a small panel of independent people well experienced in local government, which would be given legislative support to determine matters referred to it”.

### **Comment**

The concept of introducing a “sin-bin” for local government has been around now for a number of years. Although the Associations have considered that a Local Government Disciplinary Tribunal should be developed, it is considered that if the Code of Conduct is strengthened this may mitigate the need for the introduction of this sanction proposal for councillors.

The Local Government Act does have provisions relating to disorder of a Councillor and a course of action that can be taken by the Chairperson of a meeting to control acts of disorder. It is not seen how a “sin-bin” could assist given that there is already a process available.

It might be more appropriate to review the provisions of the Local Government Act relating to disorder at meetings of the Council.

### **Conclusion**

Presently Council has very little detail of what legislative changes are proposed. It is proposed to write back to the Associations consistent with the content of this Report and / or discussions raised at the Policy Review Committee Meeting.

### **RECOMMENDATION**

That :

1. The information contained within the Report outlining the proposed amendments to the Local Government Act to the Policy Review Committee Meeting be received.
2. A letter be sent to the President, Local Government Association of NSW and the President, Shires Association of NSW consistent with the content of this Report and /or discussions raised at the Policy Review Committee Meeting.

