

20 September 2006

Dear Councillor,

In pursuance of the provisions of the Local Government Act, 1993 and the Regulations thereunder, notice is hereby given that an **ORDINARY MEETING** of Penrith City Council is to be held in the Council Chambers, Civic Centre, 601 High Street, Penrith on Monday 25 September 2006 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

### ***BUSINESS***

1. **APOLOGIES**
2. **LEAVE OF ABSENCE**  
**Leave of absence has been granted to:**  
*Councillor Ross Fowler - 3 September 2006 to 25 September 2006 inclusive.*
3. **CONFIRMATION OF MINUTES**  
*Ordinary Meeting - 18 September 2006.*
4. **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)*  
*Non-Pecuniary Interest*
5. **ADDRESSING THE MEETING**
6. **MAYORAL MINUTES**  
*Year in Review.*
7. **NOTICES OF MOTION**
8. **ADOPTION OF REPORTS AND RECOMMENDATION OF COMMITTEES**
9. **MASTER PROGRAM REPORTS**
10. **URGENT REPORTS (to be dealt with in the master program to which the item relates)**
11. **QUESTIONS WITHOUT NOTICE**
12. **COMMITTEE OF THE WHOLE**

**ORDINARY MEETING**  
**MONDAY 25 SEPTEMBER 2006**  
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# PRAYER

“Sovereign God, tonight as we gather together as a Council we affirm that you are the giver and sustainer of life. We come together as representatives of our community to make decisions that will benefit this city and the people within it.

We come not in a spirit of competition, not as adversaries, but as colleagues. Help us to treat each other with respect, with dignity, with interest and with honesty. Help us not just to hear the words we say, but also to hear each others hearts. We seek to be wise in all that we say and do.

As we meet, our concern is for this city. Grant us wisdom, courage and strength.

Lord, help us. We pray this in the name of Jesus Christ our Lord. Amen.”



# **Statement of Recognition of Penrith City's Aboriginal and Torres Strait Islander Cultural Heritage**

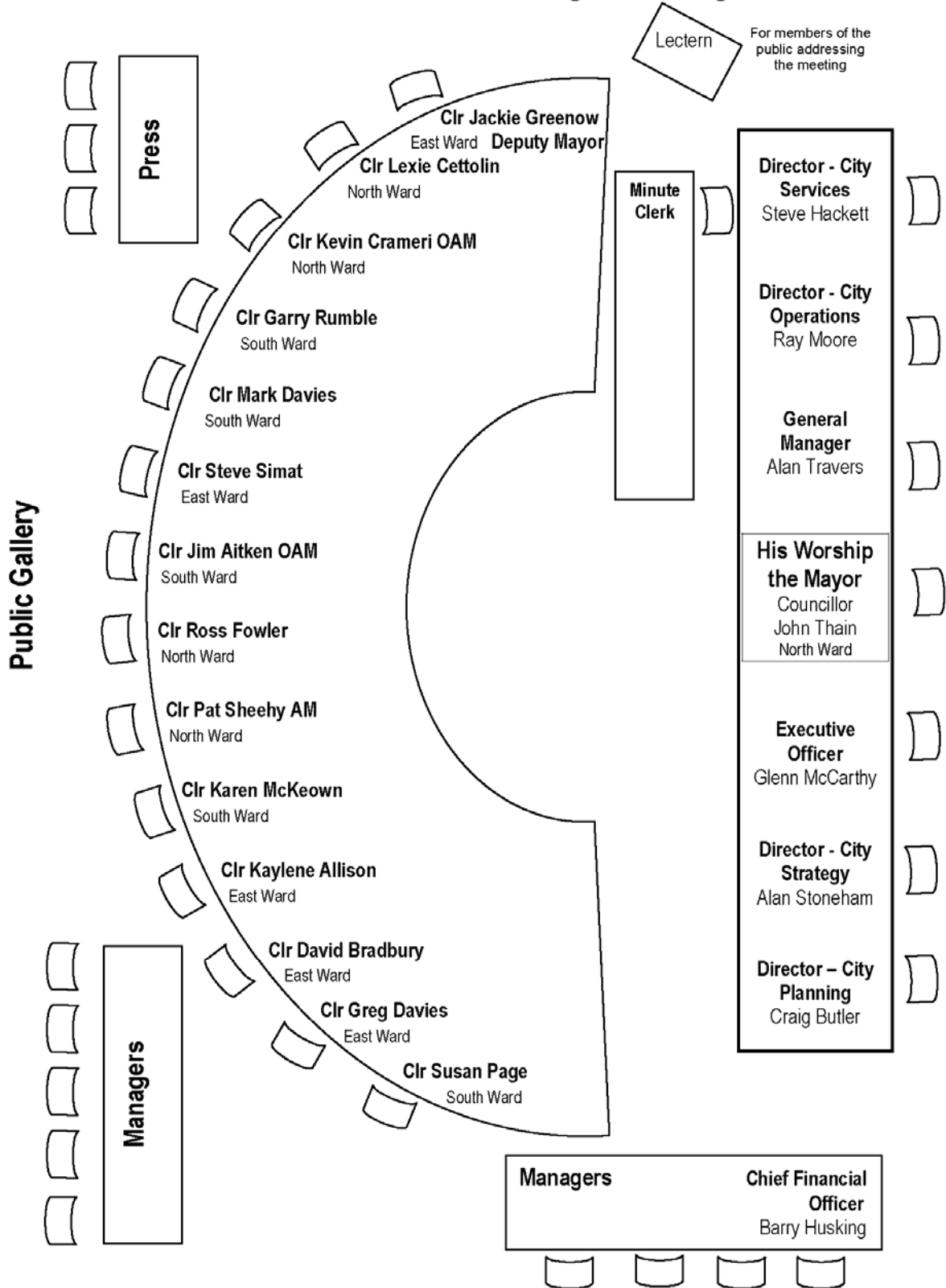
Council values the unique status of Aboriginal people as the original owners and custodians of lands and waters, including the land and waters of Penrith City.

Council values the unique status of Torres Strait Islander people as the original owners and custodians of the Torres Strait Islands and surrounding waters.

We work together for a united Australia and City that respects this land of ours, that values the diversity of Aboriginal and Torres Strait Islander cultural heritage, and provides justice and equity for all.



# Council Chambers Seating Arrangements



## MEETING CALENDAR

September 2006 - December 2006

	TIME	SEPT	OCT	NOV	DEC
		Mon	Mon	Mon	Mon
Ordinary Meetings	7.00 pm	4✓	9	6	4
		18	23	20 #	11
		25^			
Policy Review Committee	7.00 pm	11@	16	13	

# Meetings at which the Management Plan quarterly reviews are presented.

#+ General Manager's presentation – half year and end of year review

@ Strategic Program progress reports (only business)

❖ Meeting at which the Draft Management Plan is adopted for exhibition

\* Meeting at which the Management Plan for 2006/2007 is adopted

✓ Meeting at which the 2005/2006 Annual Statements are presented

^ Election of Mayor/Deputy Mayor (only business)

- Council has two Ordinary Meetings per month where practicable.
- Extraordinary Meetings are held as required.
- Policy Review Meetings are held monthly where practicable.
- Members of the public are invited to observe meetings (Ordinary & Policy Review) of the Council.

Should you wish to address Council, please contact the Executive Officer, Glenn McCarthy on 47327649.



**UNCONFIRMED MINUTES**  
**OF THE ORDINARY MEETING OF PENRITH CITY COUNCIL HELD IN THE**  
**COUNCIL CHAMBERS**  
**ON MONDAY 18 SEPTEMBER 2006 AT 7:06PM**

**NATIONAL ANTHEM**

The meeting opened with the National Anthem.

**STATEMENT OF RECOGNITION**

His Worship the Mayor, Councillor John Thain read a statement of recognition of Penrith City's Aboriginal and Torres Strait Islander Cultural Heritage.

**PRAYER**

The Council Prayer was read by the Rev Neil Checkley.

**PRESENT**

His Worship the Mayor Councillor John Thain, Councillors Jim Aitken OAM, Kaylene Allison, David Bradbury (arrived at 7:31 pm), Lexie Cettolin, Kevin Crameri OAM, Greg Davies, Mark Davies, Jackie Greenow, Karen McKeown and Pat Sheehy AM.

**APOLOGIES**

1066 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor Mark Davies that apologies be accepted for Councillors Susan Page, David Bradbury and Steve Simat.

**LEAVE OF ABSENCE**

Leave of Absence was previously granted to Councillor Ross Fowler for the period 3 September 2006 to 25 September 2006 inclusive.

Leave of Absence was previously granted to Councillor Garry Rumble for the period 6 September 2006 to 28 September 2006 inclusive.

**CONFIRMATION OF MINUTES - Ordinary Meeting - 4 September 2006**

1067 RESOLVED on the MOTION of Councillor Pat Sheehy seconded Councillor Mark Davies that the minutes of the Ordinary Meeting of 4 September 2006 be confirmed.

**DECLARATIONS OF INTEREST**

His Worship the Mayor, Councillor John Thain declared a non-pecuniary interest in *Item 4 - North St Marys Neighbourhood Centre*, as he is a member of the Management Committee for the North St Marys Neighbourhood Centre. He announced that he would vacate the Chair during consideration of this matter, but would not vacate the Chamber and would reserve the right to take part in any debate.



## SUSPENSION OF STANDING ORDERS

1068 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor Mark Davies that Standing Orders be suspended to allow members of the public to address the meeting, the time being 7:09 pm.

### Ms Catherine Maddox

*Item 7 Section 96 Modification for the extension of operating hours for the drive-through McDonald's Restaurant at Lot 100 DP 1037595 (No. 2 - 6) Star Court, Cambridge Gardens Applicant: McDonald's Properties (Australia) Pty Ltd; Owner: McDonald's Properties (Australia) Pty Ltd*

***Speaking FOR the Recommendation***

Ms Maddox was speaking as a representative of the applicant, in her role as a Development Manager with McDonalds Australia.

Ms Maddox stated that McDonalds are happy to accept all the recommendations from Council.

However, Ms Maddox did request that a mis-type be amended at Condition 57(A), with regard to the Atkins Acoustic Report dated December 2005, which has been referred to, in the report, as the Atkins Acoustic Report dated October 2000. Ms Maddox pointed out that it would be the December 2005 report upon which the recommendations of the current Council report would have been based.

### Ms Joarne Smith

*Item 7 Section 96 Modification for the extension of operating hours for the drive-through McDonald's Restaurant at Lot 100 DP 1037595 (No. 2 - 6) Star Court, Cambridge Gardens Applicant: McDonald's Properties (Australia) Pty Ltd; Owner: McDonald's Properties (Australia) Pty Ltd*

***Speaking FOR the Recommendation  
(in principle, with conditions)***

Ms Smith addressed the meeting as an affected person, being a resident of the area in the vicinity of the McDonalds restaurant at Cambridge Gardens.

Ms Smith requested that Council place strict conditional guidelines upon McDonalds to ensure future problems are quickly resolved.

Ms Smith also requested that the problem of cooking odours be resolved, and that the matter of security also be addressed, before full Council approval is given to the extended trading hours of the McDonalds 'drive-through'.

Ms Smith added that she would not want the restaurant to be open until 12.00 midnight, as has been indicated by the restaurant owner.

## RESUMPTION OF STANDING ORDERS

1069 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor Pat Sheehy that Standing Orders be resumed, the time being 7:28 pm.

## MAYORAL MINUTES

### 1 Cranebrook High School Wins Rock Eisteddfod

1070 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Jackie Greenow that the Mayoral Minute on Cranebrook High School Wins Rock Eisteddfod be received.

### 2 Council Achieves Recognition at Local Government Management Excellence Awards

Councillor David Bradbury arrived, the time being 7:31 pm.

1071 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Jackie Greenow that the Mayoral Minute on Council Achieves Recognition at Local Government Management Excellence Awards be received.

## REPORTS OF COMMITTEES

### 1 Report and Recommendations of the Local Traffic Committee Meeting held on 4 September 2006

1072 RESOLVED on the MOTION of Councillor Pat Sheehy seconded Councillor Karen McKeown that the recommendations contained in the Report and Recommendations of the Local Traffic Committee meeting held on 4 September, 2006 be adopted.

### 2 Report and Recommendations of Policy Review Committee Meeting held on 11 September 2006

1073 RESOLVED on the MOTION of Councillor Kevin Crameri seconded Councillor Jackie Greenow that the recommendations contained in the Report and Recommendations of the Policy Review Committee meeting held on 11 September, 2006 be adopted.

## MASTER PROGRAM REPORTS

## THE CITY IN ITS BROADER CONTEXT

### 1 Australia's International Solar Boat Challenge

1074 RESOLVED on the MOTION of Councillor Kevin Crameri seconded Councillor Greg Davies

That:

1. The information contained in the report on Australia's International Solar Boat Challenge be received.

2. Council approve the request for \$7,000 in sponsorship for the Solar Boat Challenge as an element of the Council's 'ACTIVATE' event.

## **2 University of Western Sydney - Marketing Initiatives**

1075 RESOLVED on the MOTION of Councillor Kevin Crameri seconded Councillor Greg Davies that the information contained in the report on University of Western Sydney - Marketing Initiatives be received.

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

### **3 Grant Application - 2006/07 WSAAS Funding Round**

1076 RESOLVED on the MOTION of Councillor Kevin Crameri seconded Councillor Karen McKeown

That:

1. The information contained in the report on Grant Application - 2006/07 WSAAS Funding Round be received.
2. Council endorse the submission of the Northern Rural Areas Community Development Project – Penrith LGA application for funding under the 2006/07 WSAAS funding round.

Having previously declared a non-pecuniary interest in Item 4, His Worship the Mayor, Councillor John Thain, vacated the Chair, but did not leave the meeting, and the Deputy Mayor, Councillor Jackie Greenow, took the Chair, the time being 7:39 pm.

### **4 North St Marys Neighbourhood Centre**

1077 RESOLVED on the MOTION of Councillor Kevin Crameri seconded Councillor Karen McKeown

That:

1. The information contained in the report on North St Marys Neighbourhood Centre be received.
2. The heat management strategies for North St Marys Neighbourhood Centre be endorsed.
3. An application for \$36,000 be submitted under the GROW Regional Partnership Funding Program to part fund the heat management strategies.
4. The remaining cost of the heat management strategies be funded from the Community Safety and Neighbourhood Renewal (\$39,762) and Sustainability Design Adviser Funding (\$5,000).

The Mayor returned to the Chair, the time being 7:42 pm.

**5 Arms of Australia Inn Museum, Emu Plains**

1078 RESOLVED on the MOTION of Councillor Pat Sheehy seconded Councillor Kevin Cramer

That:

1. The information contained in the report on Arms of Australia Inn Museum, Emu Plains be received.
2. Council agree to the Nepean District Historical Society's landholding at the Arms of Australia Inn being extended 12 metres to the west for the purpose of accommodating additional Museum related activities.
3. Arrangements be made to erect a new fence to enclose the additional land, the cost of which be met by Council.
4. The Nepean District Historical Society be advised of Council's actions and that it should lodge a Development Application for the use of the additional area for Museum related activities.

**6 Penrith Football Stadium - Future Management**

1079 RESOLVED on the MOTION of Councillor David Bradbury seconded Councillor Jackie Greenow

That:

1. The information contained in the report on Penrith Football Stadium - Future Management be received.
2. Council form a "Penrith Football Stadium Future Management Working Party" and Councillors Mark Davies, Greg Davies, Lexie Cettolin and Pat Sheehy be members of this Working Party.
3. The Terms of Reference for the Working Party be:  
*"to investigate future management options for the Penrith Football Stadium and recommend to Council a preferred arrangement."*
4. Panthers be advised of Council's actions.

**7 Section 96 Modification for the extension of operating hours for the drive-through McDonald's Restaurant at Lot 100 DP 1037595 (No. 2 - 6) Star Court, Cambridge Gardens. Applicant: McDonald's Properties (Australia) Pty Ltd; Owner: McDonald's Properties (Australia) Pty Ltd**

**DA991877**

1080 RESOLVED on the MOTION of Councillor Pat Sheehy seconded Councillor Greg Davies

That:

1. The information contained in the report on Section 96 Modification for the extension of operating hours for the drive-through McDonald's Restaurant at Lot 100 DP 1037595 (No. 2 - 6) Star Court, Cambridge Gardens is received.
2. The application under Section 96(2) of the Act to modify development

consent DA99/1887 be approved subject to the following:

2.1 Condition 57 is amended as follows:

The McDonald's drive-through facility is permitted to operate from 6 am to 12 midnight Monday to Sunday for a twelve-month probationary period commencing after Council's approval of a Site Management Plan and compliance with conditions 55(A) to (D)

An acoustic audit report prepared by an appropriately qualified person is to be submitted to Council within three months of the probationary period operating. The acoustic audit report is to specifically address compliance with the relevant Department of Environment and Conservation's (DEC) noise criteria between 10pm to 12midnight and 6am to 7am. If compliance with the relevant DEC's noise criteria cannot be achieved, the opening hours for the drive-through facility are to revert to 7am to 10pm on Mondays to Saturdays and 8am to 10pm on Sundays

If compliance with the relevant DEC's noise criteria is achieved, then, on completion of the 12 month probation period:

- A detailed acoustic report is to be submitted to Council to demonstrate that the drive-through facility is operating within the relevant noise criteria
- The permanent operation of the drive-through facility from 6 am to 12 midnight may be granted
- Should this report demonstrate the drive-through facility has not operated within the relevant noise criteria (on all days of the week), the hours for the facility shall revert back to 7am to 10pm on Mondays to Saturdays and 8am to 10pm on Sundays
- Should the Site Management Plan prove ineffective in preventing unlawful behaviour resulting from the extended operating hours and evidenced by Police Incidence Report/s, the hours for the facility shall revert back to 7am to 10pm on Mondays to Saturdays and 8am to 10pm on Sundays

2.2 The following new conditions are to be added to the development consent:

New Condition 55(A)

Signage shall be installed at the approach to the entrance and the exit of the drive-through limiting the speed of vehicles to 10km/h and encouraging patrons to be considerate of neighbours and to lower noise levels. Installation of the signage is to occur prior to commencing the extended operating hours for the drive-through facility

New Condition 55(B)

To address patron noise and behaviour, a Site Management Plan is to be submitted to and approved by Penrith City Council prior to the operation of the extended operating hours for the drive-through facility. The approved Site Management Plan shall be implemented at the commencement of the twelve-month probationary period. This plan shall be implemented over the site for the life of the development

New Condition 55(C)

Replace the existing fence on the northern boundary with a 150mm thick hebel block wall system, 3m in height as measured from the level of the driveway. This wall shall return along the top of the existing retaining wall (between McDonald's and Coles) for a length of about 20m generally in accordance with Attachment 3 of the Environmental Noise Audit Report by Atkins Acoustics dated December 2005

New Condition 55(D)

Council is to be advised in writing prior to the commencement of the operation of the drive-through from 6 am to 12 midnight

New Condition 57(A)

The drive-through is to operate, at all times, in accordance with the relevant Department of Environment and Conservation's statutory noise criteria and the noise goals specified in the noise impact assessment prepared by Atkins Acoustics dated December 2005. In the event of any inconsistency, the statutory noise criteria are to prevail

3. Those persons who made submissions be advised of Council's decision
4. A condition of consent be added, stating that:
  - a) graffiti be removed from structures within 48 hours of appearing;
  - b) repairs and maintenance to damaged structures be carried out within 48 hours of damage being done, unless the damage is severe, and in that case Council is to be advised within 48 hours, with a timeframe submitted for repairs.

## THE CITY IN ITS ENVIRONMENT

### **8 Successful grant application under the Water Savings Fund Round 2 - 2006**

1081 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Jim Aitken

That:

1. The information contained in the report on Successful grant application under the Water Savings Fund Round 2 - 2006 be received.
2. Council write to the Minister for Energy, the Hon Joe Tripodi MP, and the Minister for Water Utilities, the Hon David Campbell MP, thanking them for the grant funding from the Department of Energy, Utilities and Sustainability.

### **9 Sale of Cleanaway Australia and New Zealand**

1082 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Jim Aitken

That:

1. The information contained in the report on Sale of Cleanaway Australia and New Zealand be received.
2. The Waste and Community Protection Manager send a letter to Cleanaway Ltd in the terms of this report, confirming that Council does not object to the transfer of BAL trading as Cleanaway Ltd to Kohlberg Kravis Roberts and Co.

### **10 Floodplain Management Authorities (FMA) Conference - 27 February to 2 March 2007**

1083 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor Pat Sheehy

That:

1. The information contained in the report on Floodplain Management Authorities (FMA) Conference - 27 February to 2 March 2007 be received.
2. Council's delegates to the 2007 Floodplain Management Authorities Conference and short course, to be held at Gunnedah from 27 February to 2 March 2007, be Councillors Jim Aitken, Garry Rumble and Jackie Greenow, with Councillor Kevin Crameri to be in attendance.

## THE CITY SUPPORTED BY INFRASTRUCTURE

### **11 Rescue Services in the Penrith Local Government Area**

1084 RESOLVED on the MOTION of Councillor Pat Sheehy seconded Councillor Jim Aitken that the information contained in the report on Rescue Services in the Penrith Local Government Area be received.

**12 Tender Number 02-06/07 Provision of Tip Truck Hire**

1085 RESOLVED on the MOTION of Councillor Pat Sheehy seconded Councillor Jim Aitken

That:

1. The information contained in the report on Tender Number 02-06/07 Provision of Tip Truck Hire be received.
2. The tenders received from Jeffsan Excavations, MP Shultz, Raygal Pty Ltd, Earth Civil Pty Ltd, CNL Haulage Pty Ltd, J & S Dimech Pty Ltd, P & D Mizzi Pty Ltd, Brefni Excavation (Fleet Owners) be accepted and included in the relevant Truck Hire listing for a period of twenty-four (24) months.
3. The tenders received from Charles Collins, C & C Cremona Pty Ltd, Michael Collins, JP & J Refalo, J Fairhall Earthmoving Pty Ltd, Ronald Roser, K A Beck Pty Ltd, P & R Xibberas, J & B Buttigieg Pty Ltd (Owner/Operators) be accepted and included in the relevant Truck Hire listing for a period of twenty-four (24) months.

**LEADERSHIP AND ORGANISATION**

**13 Summary of Investments & Banking for the period 1 August 2006 to 28 August 2006**

1086 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Jackie Greenow

That:

1. The information contained in the report on Summary of Investments & Banking for the period 1 August 2006 to 28 August 2006 be received.
2. The Certificate of the Responsible Accounting Officer and Summaries of Investments and Performance for the period 1 August 2006 to 28 August 2006 be noted and accepted.
3. The graphical investment analysis as at 28 August 2006 be noted.

**16 2006 Penrith Rotary Mayoral Charity Ball**

1087 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Jackie Greenow that the information contained in the report on 2006 Penrith Rotary Mayoral Charity Ball be received.

**14 City Operations Directorate Report to end of August 2006**

1088 RESOLVED on the MOTION of Councillor Kevin Cramer seconded Councillor Greg Davies that the information contained in the report on City Operations Directorate Report to end of August 2006 be received.



**15 Signing of Friendship Agreement between Penrith City Council and Lachlan Shire Council**

1089 RESOLVED on the MOTION of Councillor Pat Sheehy seconded Councillor Jackie Greenow

That:

1. The information contained in the report on Signing of Friendship Agreement between Penrith City Council and Lachlan Shire Council be received.
2. All Penrith City Council staff involved in this event be congratulated, and in particular Joanne Ryan, who organised the visit.

**QUESTIONS WITHOUT NOTICE**

**QWN 1 International Dragon Boat Championships**

Councillor Jackie Greenow requested a report to Council on the International Dragon Boat Championships to be held this time next year.

**QWN 2 Leave of Absence**

Councillor Jackie Greenow requested Leave of Absence from 4 October 2006 to 22 October 2006 inclusive.

1090 RESOLVED on the MOTION of Councillor Kevin Cramer seconded Councillor Karen McKeown that the matter be brought forward and dealt with as a matter of urgency.

His Worship the Mayor, Councillor John Thain, ruled that the matter was urgent and should be dealt with at the meeting.

1091 RESOLVED on the MOTION of Councillor Kevin Cramer seconded Councillor Karen McKeown that Leave of Absence be granted to Councillor Jackie Greenow from 4 October 2006 to 22 October 2006 inclusive.

**QWN 3 Fee for Replacement of Lost Library Card**

Councillor Greg Davies requested that the \$5.00 replacement fee for lost library cards be abolished for pension card holders and that this change in policy be effective immediately.

1092 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Jim Aitken that the matter be brought forward and dealt with as a matter of urgency.

His Worship the Mayor, Councillor John Thain, ruled that the matter was urgent and should be dealt with at the meeting.

1093 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Jim Aitken that the \$5.00 replacement fee for lost library cards be abolished for pension card holders and that this change in policy be effective immediately.

**QWN 4 North Penrith Army Land**

Councillor David Bradbury declared a pecuniary interest in this matter, as he is an employee of the legal firm recently appointed by the Commonwealth to act in relation to this matter, and vacated the Council Chamber during consideration of this matter.

Councillor Greg Davies requested that Council write to the Hon Jackie Kelly MP, Member for Lindsay, asking her to intervene in the secrecy surrounding the documentation relating to the North Penrith Army Land.

1094 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Jim Aitken that the matter be brought forward and dealt with as a matter of urgency.

His Worship the Mayor, Councillor John Thain, ruled that the matter was urgent and should be dealt with at the meeting.

1095 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Jim Aitken that Council write to the Hon Jackie Kelly MP, Member for Lindsay, asking her to intervene in the secrecy surrounding the documentation relating to the North Penrith Army Land.

Councillor David Bradbury returned to the meeting, the time being 8:03 pm.

**QWN 5 Parking Restrictions in Derby Street, Kingswood**

Councillor David Bradbury requested a memo reply to all Councillors concerning parked cars obstructing a driveway in Derby Street, outside Nepean Hospital, restricting resident access.

**COMMITTEE OF THE WHOLE**

1096 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor Lexie Cettolin that the meeting adjourn to the Committee of the Whole to deal with the following matters, the time being 8:06 pm.

**1 Presence of the Public**

CW1 RESOLVED on the motion of Councillor Jackie Greenow seconded Councillor Lexie Cettolin that the press and public be excluded from Committee of the Whole to deal with the following matter:

*City as a Social Place*

**2 Divisional Security (Aust) Pty Ltd v Penrith City Council Land and Environment Court Proceedings No. 11229 of 2005 No. 382 - 386 The Driftway, Londonderry. Applicant: Divisional Securities (Aust) Pty Ltd; Owner: Pomt Pty Ltd**

**DA03/2568**

*This item has been referred to Committee of the Whole as the report refers to advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege and discussion of the*

*matter in open meeting would be, on balance, contrary to the public interest.*

The meeting resumed at 8:30 pm and the General Manager reported that the Committee of the Whole met at 8:06 pm on Monday 18 September 2006, the following being present

His Worship the Mayor Councillor John Thain, Councillors Jim Aitken OAM, Kaylene Allison, David Bradbury, Lexie Cettolin, Kevin Crameri OAM, Greg Davies, Mark Davies, Jackie Greenow, Karen McKeown and Pat Sheehy AM

and the Committee of the Whole excluded the press and public from the meeting for the reasons set out in CW1 and that the Committee of the Whole submitted the following recommendations to Council.

## **CONFIDENTIAL BUSINESS**

**2 Divisional Security (Aust) Pty Ltd v Penrith City Council Land and Environment Court Proceedings No. 11229 of 2005 No. 382 - 386 The Driftway, Londonderry. Applicant: Divisional Securities (Aust) Pty Ltd; Owner: Pomt Pty Ltd**

**DA03/2568**

CW2 RESOLVED on the MOTION of Councillor Jim Aitken seconded Councillor Pat Sheehy

That:

1. The information contained in the report on Divisional Security (Aust) Pty Ltd v Penrith City Council Land and Environment Court Proceedings No. 11229 of 2005 No. 382 - 386 The Driftway, Londonderry be received.
2. Council as the respondent submit that the Court issue consent orders for the application to be approved subject to the standard and special conditions detailed in the report.

Councillor Kevin Crameri asked that his name be recorded as having voted against the motion.

## **ADOPTION OF COMMITTEE OF THE WHOLE**

1097 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor Jim Aitken that the recommendation contained in the Committee of the Whole and shown as CW2 be adopted.

There being no further business the Chairperson declared the meeting closed the time being 8:31 pm.

# **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.

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. Those addressing Council will be required to speak to the written statement they have submitted. Permission to address Council is not to be taken as an opportunity to refute or otherwise the points made by previous speakers on the same issue.

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.

Steve Hackett  
**Public Officer**  
02 4732 7637

August 2003

# MAYORAL MINUTES

**Item**

**Page**

1 Year in Review

1





## **Mayoral Minute**

### **Year in Review**

**Strategic Program Term Achievement:** *A commonly shared long-term vision for the City underpins strategic collaboration and community engagement.*

I feel proud and privileged to have been given the opportunity to serve my community as Mayor of Penrith City over the last twelve months. As my term draws to a close, I would like to thank my Councillor colleagues for the honour they have given me, and the many staff in the organisation who have provided wonderful support in my role as Mayor.

It has been an extremely busy time for me personally and for the organisation, and I am very proud of the progress of the City, and of Council's achievements over the last year. I am very confident that as Penrith continues its exciting role as a major Regional City, our Council will continue to provide the direction and the vision to ensure a prosperous and secure future for our residents.

That prosperity and security depends not only on investment and economic growth, which I believe the City will see, but also on our ability to maintain and improve Local Government services while moving towards the principles of sustainable living. It is a challenge that this Council has taken up and that we need to keep at the forefront of our thinking as we build the City that our children will inherit from us.

A major highlight of the last 12 months was the choice of Penrith as one of six Regional Cities to be developed as part of the State Government's statewide planning strategy for NSW. This has reaffirmed our City's importance in contributing to Sydney's growth and has greatly enhanced our economic potential as a major business centre on the state and even national scale.

This recognition as a Regional City affirms Penrith City Council's work and determination for more than a decade to provide a dynamic vision and to concentrate on developing a partnership approach to Local Government.

This strategy is now delivering very tangible results for the community, illustrated by the recent announcement of the State Government's decision to build a \$60 million office block in the Penrith CBD. A 2500sqm plot of land, on the corner of Belmore and Station Streets and earmarked for such development, was sold to the Government by Council earlier this year. This is just the beginning as we propose further development and resulting jobs on the adjoining sites.



Another notable highlight was the selection of the Sydney International Regatta Centre as the Australian launch point for the Queen's Baton Relay in the lead up to the Commonwealth Games. The eyes of the nation were on us as many of our local citizens – including our own Cr Greenow – carried this baton through the streets. It was great recognition of our City and the Regatta Centre and received national media coverage.

One of the more rewarding roles as Mayor is presiding over Citizenship ceremonies. As an immigrant myself, it has given me a great deal of pride to officiate at these ceremonies and welcome 730 citizens from 70 countries to our City, and indeed, Australia, over the past year.

Another highlight for me was our recent Open Day. The community turned out in droves to Open Day and I believe the increasing popularity of this event is testament to the hard work and dedication of the staff and on behalf of the community; I would like to thank them for their hard work.

We are, and are seen to be, a very responsible Council. The Local Government Minister approved our special rate increase for the AREAS program and there was very little objection to the proposal from our residents. The vast majority of our residents realise that our rates are significantly lower than comparable councils and that our financial management is sound.

I commend Council's Chief Financial Officer, Barry Husking and his staff for the excellent state of Council's finances. We have maintained our Standard and Poors AA with a positive watch credit rating and finished 2005/06 with a budget surplus of \$127,000. This keeps Council on track to achieve the goals we have set in the Strategic Program and Management Plan for the rest of Council's term.

I was very pleased with the success of the re-instigated Mayoral Charity Ball that I hosted in conjunction with Penrith Rotary Club in August. I would like to thank the Council staff who worked so hard to make the night a success, particularly Executive Officer, Glenn McCarthy and our Civic Programs Officer Tina Marie Sheil. I am also very grateful for the community support for the event. Thanks to that support, I was able to hand over a cheque for \$25,000 to the Down Syndrome Association.

Over the past year I have also visited central NSW in order to cement our relationship with Lachlan Shire. This relationship will enable Penrith City residents, especially our young people, an opportunity to discover our country cousins' unique way of life through a range of community initiatives in sporting, cultural and educational exchanges. I recently went to Lachlan to sign the partnership agreement, with the Mayor of Lachlan and also, Minister for Local Government, the Honourable Kerry Hickey, MP.

Council has also been undergoing a process to integrate our principal cultural facilities. The creation of Penrith Performing and Visual Arts Ltd will allow for a stronger focus on culture

in our City and will have more muscle and hopefully be able to attract more funding and sponsorship for the City. On that note, I was pleased to see extensions to the Penrith Regional Gallery and Lewers Bequest substantially completed, worth \$1.4 million.

In July I hosted the eighth consecutive Mayoral Musicale at the Joan Sutherland Performing Arts Centre. This is the first time the Musicale has been hosted in the expanded Centre and feedback from the public has been very favourable.

In November last year, Penrith was the only Council to win two awards at the Local Government Manager's Association Management Excellence Awards. Council won the Gold Award for 'Excellence in Sustainability with Local Government' and a second award for our Responsible Driver Program. This is the 14th year of the awards, which is one of the most prestigious events in local government.

I'm pleased to say we have also made ground on a topic that is close to my heart - the development of some high quality over 55-lifestyle living.

Our population is aging and as local families look at alternatives to the family home the opportunities that cater for the needs of older residents are not always available in Penrith. This means that some of our long term residents end up having to move to other areas of Sydney or to other parts of the state.

Many of these residents would love to stay in Penrith near family and friends if the services and facilities that they need were available locally.

We have made representations and Anglican Retirement Villages are looking for a site to build a quality retirement complex in our city.

I want to pay a sincere tribute to my Councillor colleagues. They are hard working, dedicated, and committed to protecting and promoting the interests of Penrith City at all times.

Although each may have their own opinions and ideas about priorities for the City, all agree on the priority of co-operation, and of being an effective team willing to rise above politics and focus on making good decisions.

I'm very thankful for the cohesive way they have all worked in support of me and the organisation.

Penrith City Council is respected in the Local Government arena because of this, and it has indeed been an honour and privilege to lead such a Council in the task of carrying out our responsibilities and managing the organisation's direction and focus.

In the past year I have been ably supported by my Deputy Mayor, Cr Jackie Greenow, thank you Jackie, for your advice and willingness to represent this council.

I have very much enjoyed serving the community in this role, and at the end of my term, I am very pleased with Council's, and the City's, achievements.

I also want to congratulate the staff and management of Penrith City Council who have done an excellent job over the last year in delivering Council's program efficiently and effectively.

I would like to acknowledge the General Manager and Directors of Penrith City Council. I'd like to think that they are the most professional group in Local Government. When it all boils down to it, they really have the City in their veins and care about it. It's not just a job for them.

I can't emphasise how much I have appreciated Jenny Anderson over the past 12 months. As the Mayor's secretary, she ensures continuity from Mayor to Mayor and is ever diplomatic, patient and supportive.

Finally, I must thank my family. My wife Annette and my two boys Garion and Henry. I could not have fulfilled my duties as mayor without their staunch support and understanding. Since I became a Councillor 7 years ago, they have had a window into the demands of an elected representative. However, as Mayor, that demand has increased significantly and they have been with me every step of the way.



John Thain  
Mayor

## **RECOMMENDATION**

That the Mayoral Minute be received.

## MASTER PROGRAM REPORTS

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## LEADERSHIP AND ORGANISATION

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## **Leadership and Organisation**

### **1 Election of Mayor**

**Compiled by:** Glenn McCarthy, Executive Officer

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

**Strategic Program Term Achievement:** *Council has reviewed its own role and operations and has adopted contemporary practices to best discharge its charter.*

**Critical Action:** *Review current structures and procedures supporting Council and Councillors responsibilities.*

#### **Purpose:**

*To report to Council the procedure and method for the election of the Mayor. The report recommends that Council determine the method for the election of the Mayor.*

#### **Background**

The Local Government (General) Regulation, 2005 (the Regulation) provides for a councillor to be nominated without notice for election as Mayor. However, the nomination must be in writing by two or more councillors, one of whom can be the nominee. The nomination is not valid unless the nominee has indicated consent to the nomination in writing.

The nomination is to be delivered or sent to the Returning Officer (General Manager). The nomination form can be delivered or sent to the Returning Officer up until the time of the election being conducted.

Nomination forms have been sent to all Councillors prior to this meeting. Copies will also be available at the meeting if required.

#### **Election of Mayor**

The term of office of the Mayor will be until the next Mayoral Election in September 2007. If only one councillor is nominated, that councillor is elected. If more than one councillor is nominated, the council is to resolve whether the election is to proceed by open voting, ordinary ballot or preferential ballot. The election is to be held at the council meeting at which the council resolves on the method of voting.

#### **Ballot**

In the Regulation the term “ballot” has its normal meaning of secret ballot “open voting” means voting by show of hands or similar means. In other words the preferential and ordinary ballots are to be secret ballots.

#### **Ordinary Ballot or Open Voting**

1. If the election proceeds by ordinary ballot, the Returning Officer is to decide the manner in which votes are to be marked on the ballot-papers.
2. If there are only 2 candidates, the candidate with the higher number of votes is elected.



3. If there are only 2 candidates and they are tied, the one elected is to be chosen by lot.

**Count in the case of there being 3 or more candidates**

1. If there are 3 or more candidates, the one with the lowest number of votes is to be excluded.
2. If 3 or more candidates then remain, a further vote is to be taken of those candidates and the one with the lowest number of votes from that further vote is to be excluded.
3. If, after that, 3 or more candidates still remain, the procedure set out in subclause (2) is to be repeated until only 2 candidates remain.
4. A further vote is to be taken of the 2 remaining candidates.
5. If there are only 2 candidates, the candidate with the higher number of votes is elected.
6. If at any stage during a count under subclause (1) or (2), 2 or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.

**Preferential Ballot**

1. The ballot-papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the numbers “1”, “2” and so on against the various names so as to indicate the order of their preference for all the candidates.
2. The formality of a ballot-paper under this Part is to be determined in accordance with clause 345 of the Regulation.
3. If a candidate has an absolute majority of first preference votes, that candidate is elected.
4. If not, the candidate with the lowest number of first preference votes is excluded and the votes on the unexhausted ballot-papers counted to him or her are transferred to the candidates with second preferences on those ballot-papers.
5. A candidate who then has an absolute majority of votes is elected, but, if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the lowest number of votes and counting each of his or her unexhausted ballot-papers to the candidates remaining in the election next in order of the voter’s preference is repeated until one candidate has received an absolute majority of votes. The latter is elected.
6. An "absolute majority", in relation to votes, means a number which is more than one half of the number of unexhausted formal ballot-papers.

**Tied Candidates**

1. If, on any count of votes, there are 2 candidates in, or remaining in, the election and the numbers of votes cast for the 2 candidates are equal—the candidate whose name is first chosen by lot is taken to have received an absolute majority of votes and is therefore taken to be elected.
2. If, on any count of votes, there are 3 or more candidates in, or remaining in, the election and the numbers of votes cast for 2 or more candidates are equal and those

candidates are the ones with the lowest number of votes on the count of the votes—the candidate whose name is first chosen by lot is taken to have the lowest number of votes and is therefore excluded.

### **Choosing by Lot**

To choose a candidate by lot, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the Returning Officer. The slips are folded by the Returning Officer so as to prevent the names being seen. The slips are mixed and one is drawn at random by the Returning Officer and the candidate whose name is on the drawn slip is chosen.

### **Result**

The result of the election (including the name of the candidate elected as Mayor) is:

1. to be declared to the councillors at the council meeting at which the election is held by the Returning Officer, and
2. to be delivered or sent to the Director-General and to the Secretary of the Local Government and Shires Associations of New South Wales.

### **RECOMMENDATION**

That:

1. The information contained in the report on Election of Mayor be received.
2. In the event of more than one Councillor being nominated, Council determine the method of election for the office of Mayor.

### **ATTACHMENTS/APPENDICES**

There are no attachments for this report.

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## Leadership and Organisation

### 2 Election of Deputy Mayor

**Compiled by:** Glenn McCarthy, Executive Officer

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

**Strategic Program Term Achievement:** *Council has reviewed its own role and operations and has adopted contemporary practices to best discharge its charter.*

**Critical Action:** *Review current structures and procedures supporting Council and Councillors responsibilities.*

#### **Purpose:**

*To report to Council the procedure and method for the election of the Deputy Mayor. The report recommends that Council consider the election of a Deputy Mayor and determine the method for the election and term of office of the Deputy Mayor.*

#### **Background**

The Local Government (General) Regulation, 2005 (the Regulation) provides for a councillor to be nominated without notice for election as Mayor or Deputy Mayor. However, the nomination must be in writing by two or more councillors, one of whom can be the nominee. The nomination is not valid unless the nominee has indicated consent to the nomination in writing.

The nomination is to be delivered or sent to the Returning Officer (General Manager). The nomination form can be delivered or sent to the Returning Officer up until the time of the election being conducted.

Nomination forms have been sent to all Councillors prior to this meeting. Copies will also be available at the meeting if required.

#### **Election of Deputy Mayor**

Section 231 of the Local Government Act 1993 makes the following provision for the election of a deputy mayor:

- (1) The councillors may elect a person from among their number to be the deputy mayor.
- (2) The person may be elected for the mayoral term or a shorter term.
- (3) The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of mayor.
- (4) The councillors may elect a person from among their number to act as deputy mayor if the deputy mayor is prevented by illness, absence or otherwise from exercising a function under this section, or if no deputy mayor has been elected.

The election of a deputy mayor is not required by the Act but is for each council to determine. Where a council does elect a deputy mayor, the term can be for the mayoral term

or a shorter term at the council's discretion. The balance of this report assumes the continuation of Council's tradition of electing a Deputy Mayor. It is also recommended that the term of office of the Deputy Mayor be the same as the term of office of the Mayor (until September 2007).

The Regulation provides for a councillor to be nominated without notice for election as deputy mayor. However, the nomination must be in writing by two or more councillors, one of whom can be the nominee. The nomination is not valid unless the nominee has indicated consent to the nomination in writing.

The nomination is to be delivered or sent to the Returning Officer (General Manager). The nomination form can be delivered or sent to the Returning Officer up until the time of the election being conducted.

Nomination forms have been sent to all Councillors prior to this meeting. Copies will also be available at the meeting if required.

Council could resolve to use a different method of voting for the Deputy Mayor, however it has been Council's practice to use the same method of voting for the election of both the Mayor and Deputy Mayor.

## **RECOMMENDATION**

That:

1. The information contained in the report on Election of Deputy Mayor be received.
2. Council consider the Election of a Deputy Mayor.
3. In the event of more than one Councillor being nominated, Council determine the method of election for the office of Deputy Mayor.
4. The term of office for the Deputy Mayor be the same as the term of office of the Mayor (until September 2007).

## **ATTACHMENTS/APPENDICES**

There are no attachments for this report.

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## Leadership and Organisation

### 3 Councillor Fees

**Compiled by:** Glenn McCarthy, Executive Officer

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

**Strategic Program Term Achievement:** *Council has implemented leading practice ethical and corporate governance standards.*

**Critical Action:** *Review and apply leading practice ethical and corporate governance standards.*

#### **Purpose:**

*To report on Councillor Fees as set by the Local Government Remuneration Tribunal and by Council Policy. The report recommends that the information be received.*

#### **Background**

The Local Government Remuneration Tribunal was established under the Local Government Act 1993. Its main function is to:

- a) Determine categories for Council and Mayoral Offices;
- b) Place each Council and Mayoral Office into one of the categories it has determined; and
- c) Determine the minimum and maximum amounts of fees to be paid to Mayors and Councillors in each of the Categories.

The Tribunal determines the Categories for Councils and Mayoral Offices and the placement of Councils into those categories.

In a report presented to Council on 5 June 2006, it was advised that the Tribunal had made its determinations of Annual Fees payable from 1 July 2006 to Mayors and Councillors. Penrith City Council is a category 1A Council and fees for this category were to be set within the range of:

	<b>Councillor – Annual Fee</b>	<b>Mayor – Additional Fee*</b>
Category 1A	\$12,705 - \$20,965	\$27,010 - \$61,115

*\* This fee must be paid in addition to the fee paid to the Mayor as a Councillor.*

The Remuneration Tribunal does not set a fee for Deputy Mayor, however it has been the practice at Penrith to remunerate the Deputy Mayor by allocating 20% of the Mayor's fee to the Deputy Mayor in addition to the fee paid to the Deputy Mayor as a Councillor.

At the 5 June 2006 Ordinary Meeting Council resolved that the maximum of the range be paid for the financial year ending 30 June 2007, as follows:

1. Councillor Annual Fee \$20,965
2. Mayor – Additional Fee \$48,892 being 80% of the Mayoral Allowance
3. Deputy Mayor Additional Fee \$12,223 being 20% of the Mayor’s Allowance

The fee for the Mayor and Deputy Mayor are in addition to the Annual Councillor Fee.

All fees are paid monthly in arrears and apply for the whole month or part thereof.

The Tribunal will make its determination of fees payable to mayors and councillors for the 2007/2008 financial year by the end of April 2007.

### **RECOMMENDATION**

That the information contained in the report on Councillor Fees be received.

### **ATTACHMENTS/APPENDICES**

There are no attachments for this report.

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