

CONFIRMED MINUTES

OF THE ORDINARY MEETING OF PENRITH CITY COUNCIL HELD IN THE COUNCIL CHAMBERS

ON MONDAY 3 AUGUST 2009 AT 7:36PM

NATIONAL ANTHEM

The meeting opened with the National Anthem.

STATEMENT OF RECOGNITION

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

PRAYER

The Council Prayer was read by the Acting Executive Officer.

PRESENT

His Worship the Mayor Councillor Jim Aitken OAM, Councillors Robert Ardill, Kevin Cramer OAM, Greg Davies, Mark Davies, Tanya Davies, Ross Fowler OAM, Ben Goldfinch, Jackie Greenow, Prue Guillaume, Marko Malkoc, Kath Presdee, and John Thain.

LEAVE OF ABSENCE

Leave of Absence was previously granted to Councillor Karen McKeown for the period 29 July 2009 to 8 August 2009 inclusive.

APOLOGIES

'237 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Kath Presdee that the apology from Councillor Kaylene Allison be accepted.

CONFIRMATION OF MINUTES - Ordinary Meeting - 20 July 2009

'238 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Robert Ardill that the minutes of the Ordinary Meeting of 20 July 2009 be confirmed.

DECLARATIONS OF INTEREST

Councillor Mark Davies declared a Non-Pecuniary Conflict of Interest - Less than Significant in *Item 4 - Development Application DA09/0221 for a Community Facility at Lots 7, 8 and 9 DP 247158 (No. 46) Bringelly Road and Lot 5 & 6 DP 250412 (No. 49) First Street Kingswood. Applicant: Mission Australia; Owner: Mission Australia*, as his mother is employed by Mission Australia.

Councillor Tanya Davies declared a Non-Pecuniary Conflict of Interest - Less than Significant in *Item 4 - Development Application DA09/0221 for a Community Facility at Lots 7, 8 and 9 DP 247158 (No. 46) Bringelly Road and Lot 5 & 6 DP 250412 (No. 49) First Street Kingswood. Applicant: Mission Australia; Owner: Mission Australia*, as her mother-in-law is employed by Mission Australia.

Councillor Kath Presdee declared a Non-Pecuniary Conflict of Interest - Less than Significant in *Item 12 - Community Building Partnership applications from Penrith City Council*, as she lives in a suburb that may receive additional footpath paving.

Councillor Greg Davies declared a Non-Pecuniary Conflict of Interest - Less than Significant in *QWN 10 - Volunteer Training Seminar - Nepean Community College*, as he is a member of the Nepean Community College Board.

SUSPENSION OF STANDING ORDERS

239 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Tanya Davies that Standing Orders be suspended to allow members of the public to address the meeting, the time being 7:41 pm.

Mr Christian Farrell

Item 4 - Development Application DA09/0221 for a Community Facility at Lots 7, 8 and 9 DP 247158 (No. 46) Bringelly Road and Lot 5 & 6 DP 250412 (No. 49) First Street Kingswood. Applicant: Mission Australia; Owner: Mission Australia

Mr Farrell, the architect for the applicant, spoke in support of the application, reinforcing the importance of this community focused development in signifying an ongoing commitment to the Penrith Local Government Area by Mission Australia and in providing assistance to families across the spectrum of anticipated needs, including family day care and training, as well as medium term accommodation.

Mr Eugene Sarich

Item 4 - Development Application DA09/0221 for a Community Facility at Lots 7, 8 and 9 DP 247158 (No. 46) Bringelly Road and Lot 5 & 6 DP 250412 (No. 49) First Street Kingswood. Applicant: Mission Australia; Owner: Mission Australia

Mr Sarich, the town planner for the applicant, spoke in support of the proposed development, and briefly outlined the community benefits of the project.

Mr Robert Richardson

Item 11 - Proposal to close parcel of land located between Reddington Avenue and Diamantina Close, St Clair

Mr Richardson, an affected resident, spoke in support of the recommendation to close the parcel of land detailed in the report, citing many incidences of vandalism in this area, and in particular damage done to his property including damage to plants and fencing, as well as the noise from trailbikes using the reserve.

Mr David Williams

Item 13 - Development Application DA09/0323 Multi-level dwelling Lot 26 DP 237406 (No. 24) Parklands Avenue, Leonay. Applicant: David Williams; Owner: David & Laura Williams DA09/0323

Mr Williams, the applicant, spoke in support of the development application, noting that, after the recent site meeting, with Council staff, measures have been taken to have issues of concern to nearby residents resolved., including changes to the design of the building to make it more acceptable. Mr Williams sought Council's support of the application.

Ms Jacqueline Connor

Item 13 - Development Application DA09/0323 Multi-level dwelling Lot 26 DP 237406 (No. 24) Parklands Avenue, Leonay. Applicant: David Williams; Owner: David & Laura Williams DA09/0323

Ms Connor, representing affected neighbours, spoke in opposition to the proposed development, citing issues such as bulk and scale, and loss of residential amenity for nearby residents.

RESUMPTION OF STANDING ORDERS

240 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor Robert Ardill that Standing Orders be resumed, the time being 7:55 pm.

REPORTS OF COMMITTEES

1 Report and Recommendations of the Policy Review Committee Meeting held on 27 July, 2009

241 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Marko Malkoc that the recommendations contained in the Report and Recommendations of the Policy Review Committee meeting held on 27 July, 2009 be adopted.

DELIVERY PROGRAM REPORTS

A LEADING CITY

2 RTA 2009/2010 Road Funding Grants

242 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor Kevin Cramer OAM

That:

1. The information contained in the report on RTA 2009/2010 Road Funding Grants be received.
2. The RTA 2009/10 Program Funding Block Grant in the amount of \$945,000 be accepted.
3. Council accept the grant of \$250,000, offered under the 2009/2010 Roads and Traffic Authority REPAIR Program, for the reconstruction of Forrester Road, North St Marys, between Commonwealth Cr and 200m north of Commonwealth Cr.
4. The Supplementary Road Component in the amount of \$156,000 be allocated to the resurfacing of Eighth Ave, Llandilo (between Second Ave and Third Ave).
5. The Common Seal of the Council of the City of Penrith be affixed to the "Agreement for Block Grant Assistance to Council for Regional Roads 2009/2010".

1 2009 Local Government Association of NSW Annual Conference

243 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Ross Fowler OAM

That:

1. The information contained in the report on 2009 Local Government Association of NSW Annual Conference be received.
2. The four (4) motions detailed in the report be submitted for inclusion in the 2009 Local Government Association NSW Conference Business Paper, and in addition, including the following fifth motion, which responds to the complexity of the planning system and the most recent planning reforms:

MOTION 5

Subject: The need for a new Environmental Planning & Assessment Act in NSW

Motion Text

That the Local Government Association request the Minister for Planning delay the further roll out of any new planning reforms until such time as further consultation has been undertaken with Local Government and key stakeholders about the growing complexity of the planning reforms and the need for a new Environmental Planning & Assessment Act.

Note from Council

Council supports the introduction of reforms that seek to improve the efficiency and quality of decisions or developments that are approved. However, the reform process should be fully inclusive of all stakeholders. The implications of these reforms should result in service improvement and bring about change from all participants in the planning process.

There have been a suite of recent planning reforms introduced into the existing planning system. These reforms focus most of their attention on the processes around which particular issues are managed or determined. The reforms do not target qualitative development outcomes nor do they respond to some of the more pressing challenges confronting our communities and our environment. Issues such as climate change, sustainable development, limits to growth, infrastructure capacity and general community expectations have not been captured by any of the most recent reforms.

The most recent reforms that have been implemented are a one size fits all basis and, as such, many Councils that have been performing suitably in areas of development assessment and plan making have been penalised due to the non-performance of a few Councils. The most recent reforms to Part 4 of the EPAA are likely to introduce:

- further complication to the assessment process
- no guarantee that the process will become anymore efficient
- potential increases in costs to Local Government due to increased

procedural steps in the management of the assessment process

The current EPAA is the main statutory vehicle guiding planning outcomes in NSW. The EPAA provides a comprehensive three tier planning system, allowing for State, Regional and Local Plans as well as outlining the development assessment process. The EPAA has undergone 30 years of amendments, case law and the proliferation of other natural resource management legislation has meant that the planning regime in NSW is complex and becoming increasingly inefficient and unworkable.

Local Government is under constant scrutiny from the development industry and many of the reforms that have been implemented have had their genesis in attempting to make the process more efficient. The construction area has been opened up to the private sector which has resulted in the front end of the approval process becoming more complicated. Accountability of the private sector for compliance with consent conditions has proved problematic. The willingness of the private sector to become a participant in the issuing of complying development certificates has also not materialised to the extent as first envisaged.

In the meantime, Councils still need to respond to customer complaints about performance of the private sector and make suitable representations to the Building Professionals Board about the private sector performance. The most recent suggestions for Council staff to become accredited further compromises local government in terms of service delivery, attraction and retention of staff and the inequities of being able to choose the type of service that can be provided.

There is much duplication in a statutory sense that adds to the increasing complexity of our planning system. Related legislation such as the Environment Protection and Biodiversity Conservation Act 1999, the Building Code of Australia, Disability Discrimination Act are examples of other statutory considerations that influence and confuse the current planning system. To simplify the planning system, these competing legislative requirements should be consolidated along with larger issues such as environmental sustainability, environment and climate change to form the basis of a new EPAA in NSW.

12 Community Building Partnership applications from Penrith City Council

244 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Kevin Cramer OAM

That:

1. The information contained in the report on Community Building Partnership applications from Penrith City Council be received.
2. Council endorse the submission of the applications to the NSW Government's Community Building Partnership Program detailed in this Report, with the number one priority for each electorate as detailed below:
 - Penrith electorate - Jamison Park Shared Pathway, South Penrith
 - Londonderry electorate - Werrington Downs Walking Trail
 - Mulgoa electorate - Roper Road Soccer Field, Colyton
 - Smithfield electorate - Erskine Park Community Hall Kitchen
3. A further report be presented to Council should funding not be available in the revised District Open Space Developer Contribution Plan.
4. Further discussions be held with the local Members of Parliament once all grant applications have been submitted.

A GREEN CITY

- 3 Development application DA08/0886 Expansion of existing educational establishment Lot 201 & 202 DP 1021191 Lot 11 & 12 DP 1037710 (No. 132-140) Bringelly Road, Orchard Hills. Applicant: Ingham Planning; Owner: Pared Ltd** **DA08/0886**

245 RESOLVED on the MOTION of Councillor Robert Ardill seconded Councillor Greg Davies

That:

1. The information contained in the report on Development application DA08/0886 Expansion of existing educational establishment Lot 201 & 202 DP 1021191 Lot 11 & 12 DP 1037710 (No. 132-140) Bringelly Road, Orchard Hills be received.
2. Development application DA08/0886 Expansion of existing educational establishment Lot 201 & 202 DP 1021191 Lot 11 & 12 DP 1037710 (No. 132-140) Bringelly Road, Orchard Hills be approved subject to the following conditions:

Standard Conditions

2.1 A001 Approved Plans (Delete Basix)

Ground Floor Plan	Project Number 05007 issue C August 2008 prepared by NBRIS & P Architects
First Floor Plan	Project Number 05007 issue C August 2008 prepared by NBRIS & P Architects
Roof Plan	Project Number 05007 issue C August 2008 prepared by NBRIS & P Architects
Western Ground Floor Plan	Project Number 05007 issue C August 2008 prepared by NBRIS & P Architects
Eastern Ground Floor Plan	Project Number 05007 issue C August 2008 prepared by NBRIS & P Architects
Western First Floor Plan	Project Number 05007 issue C August 2008 prepared by NBRIS & P Architects
Elevations 1	Project Number 05007 issue C August 2008 prepared by NBRIS & P Architects
Elevations 2	Project Number 05007 issue C August

	2008 prepared by NBRIS & P Architects
Sections	Project Number 05007 issue C August 2008 prepared by NBRIS & P Architects
Landscape Concept Plan	Project Number 05007 issue C August 2008 prepared by NBRIS & P Architects
Staging Plan	Project Number 05007 issue C August 2008 prepared by NBRIS & P Architects

A011 DCP Construction

A012 Food shop

A026 Advertising sign

A039 Graffiti

B002 Demolition

B003 Asbestos

B004 Dust

B005 Mud soil

B006 Hours of work

D001 Erosion and sediment

D006 Site filling

D010 Appropriate disposal of excavated or other waste

D131 (Acoustic Report prepared by Renzo Tonin & Associates P/L dated 10 November 2005)

E01 ABCA compliance class 2-9 buildings

E002 Disabled persons access should be provided to the gymnasium mezzanine and to the computers room

Documentary evidence that the building will comply with Section J (Energy Efficiency) is required.

E006 Disabled access and facilities

E008 Fire safety list with CC

E009 Annual fire safety- essential fire safety class 2-9

G003 Section 73

G004 Integral Energy

- H001 Stamped plans and erection of site notice class 2-9
- H002 All form of construction
- H024 Glass installation
- H041
- H011 Engineering plans and specification
- H022 (ground floor slab) survey
- K002 WAE
- K019 Connection to Council's system (add P002)
- K025 All land required for vehicular access and parking is to be concreted or sealed with a bituminous pavement.
- K034 WAE for Filling (Add D006)
- K036 Maintenance Bond
- K037 Performance Bond
- K038 Fill
- P001 Applicants cost
- P002 Council Fees - Amended

Prior to the issue of a Construction Certificate, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees

- Q001 Notice of commencement and appointment of the PCA
- Q006 Occupation certificate for class 2-9

Special Conditions

- 2.2 Quigg Place is not to be used as a drop-off or pick up point for the school.
- 2.3 No pedestrian access is to be made available for students from Quigg Place.
- 2.4 No vehicle access to the school is to be provided from Quigg Place.
- 2.5 The provision for suitable overflow parking on site during larger events held on the site.
- 2.6 Lots 201 and 202 DP 1021191 and Lots 11 and 12 DP 1037710 are to be consolidated into one title prior to the issue of the Occupation Certificate.
- 2.7 The area of the future extension of Quigg Place is to be free of any buildings or encumbrances.

Environment

- 2.8 A phase 2 report is to be prepared in accordance with the relevant EPA (DECC) guidelines and submitted to Council for consideration

and approval prior to the release of a Construction Certificate for the site. The assessment shall be undertaken as recommended by the stage 1 Preliminary Contamination Assessment dated August 2007 prepared by Geotechnique Pty Ltd. If the Phase 2 report recommends remediation works to be undertaken a separate Development Application is to be lodged for the proposed remediation works and determined before the commencement of any building works.

- 2.9 Any works that are required to be undertaken by the phase 2 report are to be certified by a suitably qualified and accredited consultant once completed and a validation certificate is required to be provided prior to the issue of any Construction Certificate for the development.

Engineering

- 2.10 A revised car parking / vehicular access plan is to be submitted to Council for approval prior to the issue of a Construction Certificate.
- 2.11 All internal roads, car parking and manoeuvring areas associated with the subject development including driveways, turn paths, sight distance requirements, aisle widths, parking bay grades and parking bay dimensions (allowing for full door opening) shall be in accordance with AS 2890.1 – 2004, AS2890.2 – 2002 and Council’s requirements. The revised plans are to detail compliance with AS 2890.1 – 2004, AS2890.2 – 2002 and Council’s requirements.
- 2.12 A drainage design plan detailing the proposed method of stormwater drainage disposal by gravity to Council’s drainage system is to be submitted and approved by Council prior to the issue of a Construction Certificate.
- 2.13 Stormwater runoff from parking and open areas shall be directed to the stormwater drainage system. Stormwater pre-treatment devices shall be used to remove litter, sediment and oil. Specifications of the stormwater pre-treatment device including details on maintenance and cleaning of the device are to accompany the Construction Certificate application.
- 2.14 Before an Occupation Certificate is issued for the development a positive covenant for Water Quality Device/s shall be registered on the affected properties in the following terms:
- 2.15 Registration of Positive Covenant
For the purposes of the positive covenant:
- “structure and works” shall mean the Water Quality Device constructed on the land as set out on the drawing number **XXXX** by (**Designer**) approved on **XXXXX** by Penrith City Council under Development Consent No 08/0886, including all structures, pipes, pits, drains, walls, tanks, chambers, basins and surfaces designed to improve the quality of stormwater discharging from the subject site or any device that replaces the said device.

- ‘the Act’ means the Conveyancing Act 1919.

The registered proprietors covenant with the Council of the City of Penrith (Council) that they will maintain and repair the structure and works on the land in accordance with the following terms and conditions:

1. The registered proprietor will:
 - Keep the structure and works clean and free from silt, rubbish, debris and other pollutants.
 - Maintain and repair at the sole expense of the registered proprietors the whole of the works, including all structures, so that the Water Quality Device functions in a safe and effective manner in accordance with the design intent and the requirements of the manufacturer’s maintenance schedule for the particular structure.
2. For the purpose of ensuring observance of the covenant, Council may by its servants or agents at any reasonable time and upon giving the person against whom the covenant is enforced not less than 2 days notice (but at any time without notice in the case of an emergency), enter the land and view the state of construction, maintenance or repair of the structure and works on the land.
3. By written notice Council may require the registered proprietors to attend any matter and carry out such work within such time as the Council may require to ensure the proper and efficient performance of the structure and works and to that extent 88F(2)(a) of the Act is hereby agreed.
4. Pursuant to Section 88F (3) of the Act, Council shall have the following additional powers pursuant to this covenant:
 - a. In the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above, the Council or its authorised agents may enter the land with all necessary equipment and carry out any work which Council in its discretion considers reasonable to comply with the said notice referred to in (c) hereof.
 - b. Council may recover from the registered proprietor in a court of competent jurisdiction:
 - Any expense reasonable incurred by it in exercising its powers under subparagraph (a) hereof. Such expense shall include reasonable wages for Council’s own employees engaged in effecting the said work, supervising the said work and administering the said work together with costs, reasonably estimated by the

Council, for the use of machinery, tools and equipment in conjunction with the said work.

- Legal costs on an indemnity basis for the issue of the notices and recovery of the costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to Section 88F of the Act or providing any certificate required pursuant to Section 88G of the Act or obtaining any injunction pursuant to Section 88H of the Act.

5. This covenant shall bind all persons who claim under the registered proprietors as stipulated in Section 88E (5) of the Act.

2.16 Prior to the issue of an Occupation Certificate a maintenance manual for the Water Quality System (i.e. Gross Pollutant Trap / Rain Garden) shall be submitted to, and the details approved by Penrith City Council.

2.17 I003 – Roads Act Approval 1

(h) Opening of the road reserve for the provision of services including stormwater.

(i) Placing of hoardings, containers, waste skips, etc. in the road reserve.

(m) Embankment works in the road reserve around the detention basin

2.18 An Engineering Construction Certificate for the provision of engineering works (drainage, inter-allotment drainage, on-site-detention system) is to be approved by the Certifying Authority. Engineering design drawings are to be prepared strictly in accordance with Penrith Development Control Plan 2006 Part 2.3 Engineering Works and the Guidelines for Engineering Works for Subdivisions and Developments Part 1 – Design.

2.19 K004 – Amended

Where the disposal of drainage involves the provision of drains across lot boundaries, drainage easements shall be provided. The width of the drainage easement is to be in accordance with Penrith City Council's Engineering Works Development Control Plan and Guidelines for Engineering Works for Subdivisions and Developments, Part 1– Design and Part 2–Construction.

2.20 The easement shall be registered with the Land and Property Information division of the Department of Lands [prior to the issue of a Construction Certificate]. A copy of the registered easement for drainage is to be submitted to the Certifying Authority and Penrith City Council, if Council is not the Certifying Authority.

- 2.21 The applicant is to grant an easement to Penrith City Council for drainage and overland flow purposes on the location shown on the plan accompanying this consent and on the basis that no claim for compensation will be made and that the applicant will meet all associated survey and legal costs.
- 2.22 Prior to the issue of an Occupation Certificate an easement for drainage and overland flow shall be provided and evidence of registration shall be submitted to the Principal Certifying Authority and Penrith City Council, if Council is not the Principal Certifying Authority
- 2.23 An on-site detention system shall be provided to restrict stormwater discharges from the site to pre-development flows. The system is to provide for all storms up to and including the 1% AEP event. In addition, a positive covenant shall be registered on the site for the on-site detention system before an Occupation Certificate is issued for the development.
- 2.24 Engineering details and supporting calculations for the on-site detention system are to be prepared by a qualified Hydrologic/Hydraulic Engineer and is to accompany the Construction Certificate application for the development in the form of an Engineering Construction Certificate.

{Note: If Penrith City Council is the Certifying Authority for the Construction Certificate for the entire development on the site, the Construction Certificate application fee shall include the fee for the On-Site Detention System. }

- 2.25 On-site detention system levels are critical and should be carefully checked prior to construction to ensure they are built in accordance with approved plans and will have the required volume of storage.
- 2.26 Submission of WAE plans

On completion of the on-site detention system, Works-As-Executed (WAE) plans, prepared by a registered surveyor or the design engineer, are to be submitted to the Principal Certifying Authority. If Penrith City Council is not the Principal Certifying Authority, a copy of the WAE plans is to be submitted to Council prior to occupation. The WAE plans are to be certified by the designer of the system and are to clearly make reference to:

- the works having been constructed in accordance with the approved plans, and
- the actual storage volume and orifice size provided, and
- any variation to the approved design and required remedial works, and
- the anticipated performance of the system with regard to the design intent.

- 2.27 Registration of Positive Covenant

Before an Occupation Certificate is issued for the development, a positive covenant shall be registered on the property for the on-site detention system in the following terms:

For the purposes of the positive covenant:

- “structure and works” shall mean the on-site detention system constructed on the land as set out on the drawing annexed hereto and marked with the letter “A”, being drawing No **XXXXXX** revision **XXXXXX** prepared by **XXXXXX** and dated **XXXXXX** (**whatever is the last date on the plans**) approved by **XXXXXX** (**insert certifiers name**) under Development Consent No **XX/XXXX** approved by Penrith City Council on **XXXXXX**, including all gutters, pipes, drains, walls, kerbs pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater on the land.
- ‘the Act’ means the Conveyancing Act 1919.

The registered proprietors covenant with the Council of the City of Penrith (Council) that they will maintain and repair the structure and works on the land in accordance with the following terms and conditions:

(a) The registered proprietor will:

- Keep the structure and works clean and free from silt, rubbish, debris and other pollutants.
- Maintain and repair at the sole expense of the registered proprietors the whole of the works, including all structures, so that the on-site detention system functions in a safe and effective manner in accordance with the design intent.

(b) For the purpose of ensuring observance of the covenant, Council may by its servants or agents at any reasonable time and upon giving the person against whom the covenant is enforced not less than 2 days notice (but at any time without notice in the case of an emergency), enter the land and view the state of construction, maintenance or repair of the structure and works on the land.

(c) By written notice Council may require the registered proprietors to attend any matter and carry out such work within such time as the Council may require to ensure the proper and efficient performance of the structure and works and to that extent 88F(2)(a) of the Act is hereby agreed.

(d) Pursuant to Section 88F (3) of the Act, Council shall have the following additional powers pursuant to this covenant:

- i. In the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above, the Council or its authorised agents may enter the land

with all necessary equipment and carry out any work which Council in its discretion considers reasonable to comply with the said notice referred to in (c) hereof.

- ii. Council may recover from the registered proprietor in a court of competent jurisdiction:
 - Any expense reasonable incurred by it in exercising its powers under subparagraph (a) hereof. Such expense shall include reasonable wages for Council's own employees engaged in effecting the said work, supervising the said work and administering the said work together with costs, reasonably estimated by the Council, for the use of machinery, tools and equipment in conjunction with the said work.
 - Legal costs on an indemnity basis for the issue of the notices and recovery of the costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to Section 88F of the Act or providing any certificate required pursuant to Section 88G of the Act or obtaining any injunction pursuant to Section 88H of the Act.

- (e) This covenant shall bind all persons who claim under the registered proprietors as stipulated in Section 88E (5) of the Act.

The existing detention basin is to be re-configured to suit the proposed school development. The re-configured basin shall conform to the requirements stated in J Wyndham Prince's Stormwater Management Strategy dated 8 November 2005 Section 4.2.2 "Detention Basin" and the following conditions. Full details including all calculations, levels and sections shall be forwarded to Council for approval prior to the issue of a Construction Certificate. Details of retaining structures and battered slopes and banks shall be included.

Retaining walls and works to raise the on-site detention basin embankment shall be confined to the subject property and the road reserve shall be filled and restored to natural level. The basin shall be fenced on the boundary with a 1.8m high man proof fence. Battered slopes shall not exceed 4:1 horizontal to vertical.

Appropriate warning signage shall be erected in the vicinity of the detention basin warning against deep and flowing water.

The treatment of overland flows through the site shall be provided on engineering plans and shall be submitted to Council for approval prior to the issue of a Construction Certificate.

Before an Occupation Certificate is issued for the development, a positive covenant shall be registered on the affected properties for the overland flow path in the following terms:

For the purpose of the positive covenant:

- “structure and works” shall mean the overland flow path constructed on the land as detailed on the plans approved by Council including pavement and fencing.

The registered proprietors covenant with the Council of the City of Penrith (Council) that they will maintain and repair the structure and works on the land in accordance with the following terms and conditions:

(a) The registered proprietor will:

- Keep the structure and works clean and free of goods, materials, plant and machinery.
- Maintain and repair at the sole expense of the registered proprietors the whole of the works, including all structures, so that the overland flow path functions in a safe and effective manner in accordance with the design intent.

(b) For the purpose of ensuring observance of the covenant, Council may by its servants or agents at any reasonable time and upon giving the person against whom the covenant is enforced not less than 2 days notice (but at any time without notice in the case of an emergency), enter the land and view the state of construction, maintenance or repair of the structure and works on the land.

(c) By written notice Council may require the registered proprietors to attend any matter and carry out such work within such time as the Council may require to ensure the proper and efficient performance of the structure and works and to that extent 88F(2)(a) of the Act is hereby agreed.

(d) Pursuant to Section 88F (3) of the Act, Council shall have the following additional powers pursuant to this covenant:

- (iii) In the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above, the Council or its authorised agents may enter the land with all necessary equipment and carry out any work which Council in its discretion considers reasonable to comply with the said notice referred to in (c) hereof.
- (iv) Council may recover from the registered proprietor in a court of competent jurisdiction:
 - Any expense reasonable incurred by it in exercising its powers under subparagraph (a) hereof. Such expense shall include reasonable wages for Council’s own employees engaged in effecting the said work, supervising the said work and administering the said work together with costs, reasonably estimated by the Council,

for the use of machinery, tools and equipment in conjunction with the said work.

- Legal costs on an indemnity basis for the issue of the notices and recovery of the costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to Section 88F of the Act or providing any certificate required pursuant to Section 88G of the Act or obtaining any injunction pursuant to Section 88H of the Act.

(e) This covenant shall bind all persons who claim under the registered proprietors as stipulated in Section 88E (5) of the Act.

2.28 Q003 - Compliance Certificates (Engineering)

Including filling operations on site

Accessible parking spaces are to be provided at close proximity to the main entrances.

2.29 Prior to the issue of an Occupation Certificate a Traffic Management Plan is to be lodged and approved by Penrith City Council indicating how the safety of vehicles and pedestrians will be ensured throughout the car park and drop off/bus zones.

Roads & Traffic Authority

2.30 Car parking provision shall be provided to Council's satisfaction. Suitable provision is to be made for the on-site parking of vehicles during special events undertaken at the school.

2.31 Bicycle parking shall be provided in accordance with Council's requirements.

2.32 The layout of the entry and exit driveways, car parking area, drop-off/pick up zones and bus zone including sight distance requirements, aisle widths, ramp grades, turning paths, driveway widths, and bay dimensions are to be in accordance with AS2890.1-2004 and AS2890.2-2002.

2.33 The swept path of the longest vehicle (including garbage trucks and buses) entering and exiting the subject site, as well as manoeuvrability through the site shall be in accordance with AUSTRROADS. In this regard, plans showing that the proposed development complies with this requirement shall be submitted to Council for approval.

2.34 All vehicles are to enter and exit the site in a forward direction.

2.35 Appropriate signage and line marking shall be installed for the entry and exit driveways, car parking areas, drop-off/pick up zones, bus zone and loading areas

- 2.36 Consideration could be given to providing a pedestrian crossing facility across Bringelly Rd within the school frontage. It is noted that any crossing facility would need to meet RTA warrants and would need approval from the Local Traffic Committee.
 - 2.37 All landscaping, signage, fencing and parked buses are not to impede sight lines to pedestrians.
 - 2.38 A construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council, for approval prior to the issue of a Construction Certificate.
 - 2.39 All construction vehicles are to be contained wholly within the site.
 - 2.40 The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above works and as required by the various public utility authorities and/ or their agents.
 - 2.41 All works associated with the proposed development are to be carried out at no cost to the RTA.
 - 2.42 The student numbers for the school is not to exceed 375 unless otherwise approved by Council.
3. Those people making submissions be notified of the determination.

In accordance with Section 375A of the Local Government Act 1993, a DIVISION was then called with the following result:

For

Councillor Jim Aitken OAM
Councillor Robert Ardill
Councillor Kevin Crameri OAM
Councillor Greg Davies
Councillor Mark Davies
Councillor Tanya Davies
Councillor Ross Fowler OAM
Councillor Ben Goldfinch
Councillor Jackie Greenow
Councillor Prue Guillaume
Councillor Marko Malkoc
Councillor Kath Presdee
Councillor John Thain

Against

Having previously declared a Non-Pecuniary Conflict of Interest - Less than Significant in this matter, Councillors Mark Davies and Tanya Davies left the meeting, the time being 8:02 pm.

4 Development Application DA09/0221 for a Community Facility at Lots 7, 8 and 9 DP 247158 (No. 46) Bringelly Road and Lot 5 & 6 DP 250412

**(No. 49) First Street Kingswood. Applicant: Mission Australia; Owner:
Mission Australia**

DA09/0221

246 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Ross Fowler OAM

That:

1. The information contained in the report on Development Application DA09/0221 for a Community Facility at Lots 7, 8 and 9 DP 247158 (No. 46) Bringelly Road and Lot 5 & 6 DP 250412 (No. 49) First Street Kingswood be received.
2. The objection pursuant to *State Environmental Planning Policy No. 1 – Development Standards* to the minimum landscaped area and maximum external wall height provisions under Clause 12(3) of *Penrith Local Environmental Plan 1998 (Urban Land)* be supported.
3. Development Application DA09/0221 for a Community Facility at Lots 7, 8 and 9 DP 247158 (No. 46) Bringelly Road and Lot 5 & 6 DP 250412 (No. 49) First Street Kingswood be approved subject to the following conditions:

Standard Conditions

- | | | |
|-----|------|---|
| 3.1 | A001 | Approved plans |
| | A008 | Works to BCA requirements |
| | A009 | Residential works DCP |
| | A011 | Engineering works DCP |
| | A014 | Lot consolidation |
| | A019 | Occupation Certificate |
| | A026 | Advertising signs |
| | A029 | Hours of operation and delivery times |
| | A032 | Goods in buildings |
| | A038 | Lighting locations |
| | A039 | Graffiti |
| | A046 | Obtain Construction Certificate before commencement of works |
| | B001 | Demolition of existing structures |
| | B002 | Australian Standard for demolition and disposal to approved landfill site |
| | B003 | Asbestos |
| | B004 | Dust |
| | B005 | Mud/soil |
| | B006 | Hours of demolition work |
| | C003 | Uncovering relics |
| | D001 | Implement approved sediment and erosion control measures |
| | D006 | No filling without prior approval |

D007	Filling of land
D009	Covering of waste storage area
D010	Appropriate disposal of excavated or other waste
D013	Approved noise levels
D014	Plant and equipment noise
E002	BCA issues to be addressed
E006	Disabled access and facilities
E009	Annual fire safety – essential fire safety (Class 2-9 buildings)
E01A	BCA compliance for Class 2-9
G002	Section 73
G004	Integral Energy
H001	Stamped plans and erection of site notice (Class 2-9)
H002	Provision of site facilities prior to commencement of construction works
H003	Traffic safety during construction
H006	Implement waste management plan
H025	Construction of garbage rooms
H033	Clothes drying facilities
H041	Hours of construction work
I003	Roads Act approval
K001	Engineering Construction Certificate
K003	Drainage design
K009	On-site detention
K019	Connection to Council's system
K021	Splay corners
K025	Pavement seal
K027	Car parking
K029	In crossings
K030	Out crossings
L001	Approved landscaping plans
L002	Landscaping construction
L003	Landscaping report requirements
L005	Planting of plant material
L006	Australian Standard landscaping requirements

L007	Tree protection measures
L008	Tree preservation order
M013	Street trees
P001	Costs
P002	Fees associated with Council land
Q001	Notice of commencement and appointment of PCA
Q006	Occupation Certificate
Q010	BASIX Certificate

Special Conditions

- 3.2 In order to improve surveillance, landscaping shall provide clear lines of sight and avoid concealment areas in public areas, along footpaths and along the frontages of the site.
- 3.3 Dense vegetation and shrubs with top to bottom foliage shall be avoided. Low ground cover or high canopied vegetation is preferred to enable clear sight lines and maintain visibility.
- 3.4 All walkways and common areas within the development shall be open and clear of potential entrapment spots.
- 3.5 All walkways and common areas shall be clearly visible from building windows and unhindered by vegetation or other obstructions.
- 3.6 Access to common areas of the development shall be limited to staff, patrons, occupants and their authorised guests to ensure that the facilities do not provide excuse-making opportunities for unauthorised people entering the development.
- 3.7 Access to the private courtyards of the residential units shall be restricted to residents and their authorised guests only. Access control or territorial reinforcement measures shall be put in place to clearly separate public and private spaces. This can be in the form of fencing or landscaping treatments which clearly define the private space.
- 3.8 Access to the family day care areas of the development shall be controlled to restrict unauthorised access to these areas.
- 3.9 A closed circuit television (CCTV) system shall be installed at the entrance/exit to the Family Support Services Centre.
- 3.10 The Family Support Services Centre children's play areas shall have only one entry/exit point (excluding emergency exit points) to ensure supervision of all persons entering/exiting the room.
- 3.11 Car parking areas shall be well lit in accordance with relevant Australian Standards.
- 3.12 Patrons attending the centre outside of normal business hours shall be encouraged to park in specific car spaces close to the venue entrance. This shall be encouraged in centre literature and signage in the car park.

- 3.13 The automatic gates to be installed at the entrance to the central car park area shall be kept locked outside of normal business hours and/or controlled by a swipe card system (or similar).
- 3.14 The following design measures shall be applied to all public toilet areas of the development:
- (a) Toilets shall be clearly visible and signposted in all public areas.
 - (b) Entrances to toilets shall be clear of all screening to allow surveillance by the public and staff.
 - (c) Toilet cubicle doors shall open outward to allow access in an emergency. Doors shall also have spring-opening hinges to allow doors to remain open when not in use.
 - (d) The rear of toilet doors shall have hooks located half way down to ensure handbags cannot be accessed over the top of the door.
 - (e) There shall be a gap between the door and floor and door and ceiling.
 - (f) Toilet fittings shall be flush to walls to avoid tampering or stashing of items.
- 3.15 A Security Management Plan shall be submitted and approved prior to the issue of an Occupation Certificate. The Security Management Plan shall detail the intended management of the development and strategies to promote safety and deter crime and anti-social behaviour. This includes use of security personnel and/or systems (e.g. a closed circuit television system), access control measures (e.g. swipe cards) and/or use of building alarms.
- 3.16 An alarm system shall be installed to enhance security of the development.
- 3.17 All buildings shall be clearly identified with visible street numbers to assist visitors and emergency services.
- 3.18 Adequate illumination shall be provided for directional signage and for building identification signage.
- 3.19 Internal and external signage shall be large and legible with strong colours, plain language and standard symbols (e.g. for toilets) and use simple graphics.
- 3.20 Signage shall be provided indicating where to go for help or assistance.
- 3.21 Details of the intended illumination of the site signage and light spill details shall be submitted and approved prior to the issue of a Construction Certificate. In this regard, it shall be demonstrated that no adverse impact will result on neighbouring properties.
- 3.22 The acoustic masonry fence along the northern property boundary shall be increased in height to 2.2m. This modification shall be incorporated into the Construction Certificate plans for the development.
- 3.23 The dispersion of visitors from the site on weeknight evenings and on Saturday gatherings shall be appropriately managed to mitigate any

- impacts on neighbouring properties.
- 3.24 Council's approval is limited to a maximum of 4 special events (such as parent expos, family barbecues and/or seminars) per calendar year. The approved hours of operation of these events are 9am-4pm, Saturday.
 - 3.25 A plan of management for the site shall be prepared detailing how complaints from local residents regarding noise or other issues of concern will be attended to. Details shall be submitted prior to the issue of an Occupation Certificate.
 - 3.26 A manager shall be on-call after closing hours of the Family Support Services Centre to suitably respond to emergency situations which may arise in relation to the Family Accommodation Centre and to provide telephone support to residents of the Family Accommodation Centre.
 - 3.27 Each of the recommendations contained in the Access Review (Version 2, dated 12 March 2009) prepared by Morris-Goding Accessibility Consulting shall be incorporated into the Construction Certificate plans for the development.
 - 3.28 The entry door width of Unit 6 (Family Accommodation Centre) shall be compliant with Australian Standard 1428 – Design for Access and Mobility and the accessible car space for this unit shall be relocated closer to the Family Accommodation Centre's entry foyer. These modifications shall be incorporated into the Construction Certificate plans for the development.
 - 3.29 The acoustic masonry fence/wall along the common (northern) property boundary with 44 Bringelly Road shall extend in height to the same level as the roof of the adjoining garage and rear bedroom (i.e. increase in height from 1.8m to 2m), for the length of the garage and rear bedroom only. This modification shall be incorporated into the Construction Certificate plans for the development.
 - 3.30 Prior to the commencement of demolition works, a Termite Building Inspection Report and Termite Management Plan to reduce the risk of the spread of termites to adjoining properties shall be submitted and approved.
 - 3.31 In relation to the Family Accommodation Centre, should separate tenancies be proposed for long-term use or should approval be sought for a subdivision of the land to excise the dwellings onto a separate land title, Council will at this time levy for the payment of any relevant Section 94 contributions.
 - 3.32 Prior to the issue of a Construction Certificate, details of the proposed external building materials and colours for the Family Accommodation Centre shall be submitted and approved.
 - 3.33 Prior to the issue of a Construction Certificate, full details of all proposed fencing (including materials and colours) shall be submitted and approved.

- 3.34 Prior to the commencement of demolition works, the applicant shall submit a dilapidation report for the existing dwelling at 44 Bringelly Road, Kingswood, documenting the existing condition of the dwelling including any existing damage or cracks. The report will be made available by Council in any private dispute arising from damage as a result of the approved demolition works.
- 3.35 The demolition works shall be undertaken in accordance with the Structural Engineer's Report (Reference No. 207179, dated 23 March 2009) prepared by Demlakian Consulting Engineers.
- 3.36 Prior to the commencement of the demolition works, the applicant shall submit a hazardous materials report.
- 3.37 All verge areas are to be turfed for the full width from the back of kerb to the property boundary at completion of the works.
- 3.38 The children's outdoor play area is not to be utilised after 6pm.
- 3.39 Prior to the issue of an Occupation Certificate, a certificate shall be submitted from a qualified acoustic consultant certifying completion of each of the recommendations contained in the Noise Assessment Report (Report No. 07345, Version A) prepared by Wilkinson Murray dated February 2009 and the additional information letter prepared by Wilkinson Murray dated 30 April 2009.
- 3.40 Prior to the issue of a Construction Certificate, the following information is to be submitted to Council for consideration and approval:
- (a) Details of the air conditioner plant to be installed and the appropriate acoustic attenuation to be installed that meets the requirements of the Noise Assessment Report (Report No. 07345, Version A) prepared by Wilkinson Murray dated February 2009 and the additional information letter prepared by Wilkinson Murray dated 30 April 2009.
 - (b) Construction details of the acoustic fence to be constructed along the northern property boundary of the development site.
- 3.41 A dilapidation report of all Council owned infrastructure fronting the development in Bringelly Road, First Street and Baden Powell Avenue is to be submitted to Council prior to the commencement of construction. The report is to include, but not be limited to, footpaths, kerb and gutter, pavement and street trees and is to extend 10m either side of the development.
- 3.42 Prior to the issue of a Construction Certificate, engineering design drawings are to be prepared strictly in accordance with Penrith Development Control Plan 2006, Part 2.3 Engineering Works, and the Guidelines for Engineering Works for Subdivisions and Developments, Part 1-Design.
- 3.43 All car parking and manoeuvring areas associated with the subject development, including driveways, access ramp grades and widths, circulating roadways, turn paths, sight distance requirements, overhead clearances for people with disabilities, aisle widths, garage

dimensions and parking bay grades and dimensions (allowing for full door opening) shall be in accordance with AS 2890.1-2004 and Council's requirements. Full details demonstrating compliance must be submitted with the Construction Certificate.

- 3.44 The blind aisle for the residential garages shall be amended to include a 1m extension for turning manoeuvres in accordance with the requirements of AS 2890.1. Single garages shall comply with Penrith Development Control Plan 2006 for full door opening (i.e. 3.2m × 5.4m).
4. The individuals who made a submission be advised of Council's decision and of the consideration given to their concerns.

In accordance with Section 375A of the Local Government Act 1993, a DIVISION was then called with the following result:

For
Councillor Jim Aitken OAM
Councillor Robert Ardill
Councillor Kevin Crameri OAM
Councillor Greg Davies
Councillor Ross Fowler OAM
Councillor Ben Goldfinch
Councillor Jackie Greenow
Councillor Prue Guillaume
Councillor Marko Malkoc
Councillor Kath Presdee
Councillor John Thain

Against

Councillor Mark Davies returned to the meeting, the time being 8:05 pm.

- 5 Development Application DA09/0402 for Stage 4 of the Great River Walk at various lots between Victoria Bridge and the M4 Motorway, Emu Plains. Applicant: Penrith City Council; Owner: Penrith City Council, Department of Planning, Department of Lands, Roads & Traffic Authority.**

DA09/0402

247 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Robert Ardill

That:

1. The information contained in the report on Development Application DA09/0402 for Stage 4 of the Great River Walk at various lots between Victoria Bridge and the M4 Motorway, Emu Plains be received.
2. The DA09/0402 for Stage 4 of the Great River Walk be approved, subject to the following conditions:

2.1 Standard

A001 (Approved Plans)

A011 (Engineering Works DCP)

A019 (Occupation Certificate)

A039 (Graffiti)

A046 (Construction Certificate)

C003 (Uncovering Relics)

D001 (Erosion & Sediment Control)

D002 (Spraygrass)

D009 (Waste Storage Areas)

E001 (BCA Compliance)

E002 (BCA issues to be addressed- insert 'Handrails and balustrades on stairs, landings and decks where the external ground surface is more than 1 metre below the floor level, must comply with the BCA, specifically in regard to height and having no gaps in excess of 125mm')

E006 (Disabled Access and Facilities)

H001 (Stamped Plans & Erection of Site Notice)

H002 (All forms of Construction)

H003 (Traffic Control Plan)

H011 (Engineering Plans and Specifications)

H041 (Hours of work)

L001 (General)

L005 (Planting of Plant Material)

L006 (Aust Standard)

L008 (Tree Preservation Order)

P001 (Applicants Cost)

Q01f (Notice of Commencement & Appointment of PCA)

Special Conditions

- 2.2 Any areas disturbed during construction works are to be suitably

rehabilitated

- 2.3 A soil and water management plan is to be prepared and submitted to the Principal Certifying Authority prior to the commencement of works on site
- 2.4 Consideration is to be given to the provision of sheltered rest areas, suitable for persons with limited mobility, where appropriate
- 2.5 The gravel path identified behind Emu Hall is to remain an informal grassed path. Bollard markers are to be a maximum 300mm high
- 2.6 Path linemarking and regulatory signage is to be provided in accordance with Section 6.2 of the RTA's *NSW Bicycle Guidelines 2005*
- 2.7 Shared-use path advisory signage G9-259-1 Keep Left and G9-259-2 Warn When Approaching is to be provided in accordance with Section 6.6 of the RTA's *NSW Bicycle Guidelines 2005*
- 2.8 Consideration is to be given to the provision of bike parking facilities at the key areas of Stage 4 of the Great River Walk, such as the amphitheatre and/or lookout points
- 2.9 Shared-use path crossing signage shall be installed for both approaches at the crossing at the southern most point of the pathway
- 2.10 The gradient at the southernmost point of the pathway is to be rectified to assist cyclists/people with a disability who are required to stop at the road edge
- 2.11 Under the Roads Act, 1993 the following works are to be approved by Penrith City Council before the commencement of works. Plans and inspection fees are to be lodged with Penrith City Council for the following works in the road reserve:
 - (a) Provision of the concrete path and handrails adjoining the proposed kerb & gutter in River Road.

Contact Penrith City Council's Development Engineering Unit on (02) 4732 7777 to ascertain applicable fees

All works are to be designed and constructed in accordance with Penrith Development Control Plan 2006 Part 2.3 Engineering Works and the Guidelines for Engineering Works for Subdivisions and Developments Part 1 – Design and Part 2 – Construction
- 2.12 Engineering design drawings are to be prepared strictly in accordance with Penrith Development Control Plan 2006 Part 2.3 Engineering Works and the Guidelines for Engineering Works for Subdivisions and Developments Part 1 – Design
- 2.13 The plans are to be structurally certified by a qualified practising structural engineer. The structural certification, along with any Geotechnical investigations, are to be submitted for consideration and approval prior to the issue of a Roads Act Approval
- 2.13 Prior to the **issue of a Construction Certificate**, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.

3. Those making submissions be notified of the outcome.

In accordance with Section 375A of the Local Government Act 1993, a DIVISION was then called with the following result:

For	Against
Councillor Jim Aitken OAM	
Councillor Robert Ardill	
Councillor Kevin Crameri OAM	
Councillor Greg Davies	
Councillor Mark Davies	
Councillor Ross Fowler OAM	
Councillor Ben Goldfinch	
Councillor Jackie Greenow	
Councillor Prue Guillaume	
Councillor Marko Malkoc	
Councillor Kath Presdee	
Councillor John Thain	

6 Fire safety assessment of Erskine Park Shopping Centre. Applicant: Nil; Owner: G.E.S.P. Pty Limited

248 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Kevin Crameri OAM

That:

1. The information contained in the report on Fire safety assessment of Erskine Park Shopping Centre be received.
2. Council prepare a Notice of Intention to Serve an order incorporating all items identified by the Brigade and Council.
3. The Brigade be advised on the action taken by Council.

7 Fire safety report on 37 Leland Street Penrith. Applicant: Nil; Owner: Mr. Spiro Gouriotis & Mrs. Areti Gouriotis

249 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Kevin Crameri OAM

That:

1. The information contained in the report on Fire safety report on 37 Leland Street Penrith be received.
2. Council prepare a Notice of Intention to Serve an order incorporating all items identified by the Brigade and Council.
3. The Brigade be advised on the action taken by Council.

13 Development Application DA09/0323 Multi-level dwelling Lot 26 DP 237406 (No. 24) Parklands Avenue, Leonay. Applicant: David Williams;

Owner: David & Laura Williams

DA09/0323

Councillor Tanya Davies returned to the meeting, the time being 8:14 pm.

250 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Ross Fowler OAM

That:

1. The information contained in the report on Development Application DA09/0323 Multi-level dwelling Lot 26 DP 237406 (No. 24) Parklands Avenue, Leonay be received
2. The submitted SEPP 1 be supported.
3. Council consider adopting as a policy position the inclusion of paved areas in association with a swimming pool into landscape area calculations and investigate the inclusion of swimming pools as landscape area in Stage 2 of the LEP and DCP.
4. DA09/0323 for a multilevel dwelling consisting of two storeys and attic at the front and three storeys and attic at the rear at 24 Parklands Avenue LEONAY NSW 2750, be approved subject to the attached conditions:
 - 4.1 A001 Approved plans that are architecturally drawn
 - A008 Works to BCA requirements
 - A009 Residential Works DCP
 - A011 Engineering Works DCP
 - A043 Air conditioner for existing dwelling
 - A046 Obtain a Construction Certificate
 - B002 Demolition
 - D001 Implement approved sediment & erosion control measures
 - D009 Covering of waste storage area
 - D010 Appropriate disposal of excavated or other waste
 - E001 BCA compliance
 - E005 Smoke detectors-interconnect
 - F006 Water tank & nuisance
 - G005 Rainwater tank-Plumbing
 - H01F Stamped plans & erection of site notice
 - H002 All forms of construction
 - H011 Engineering plans & specifications
 - H013 Structural details required
 - H014 Slabs/footings
 - H015 Termites
 - H18F Timber framework
 - H022 Survey
 - H024 Glass installations

H030 Roof finishes
 H036 Rainwater tank
 H037 Safe supply of water from catchment
 H038 Connection of rainwater tank supply
 H039 Rainwater tank pumps
 H041 Hours of Work
 I003 Road Act Approval
 K011 Flooding RL 29.8m AHD
 K013 Flooding Survey RL 29.8m AHD
 L007 Tree protection measures
 L008 Tree Preservation Order
 P001 Costs
 P002 Fees associated with Council land
 Q01F Notice of Commencement of Appointment of PCA
 Q05F Occupation/Compliance Certificate

Special Conditions

- 4.2 *Driveway Grades* - Prior to the issue of a Construction Certificate the certifying authority should ensure that driveway grades are in accordance with AS2890.1
- 4.3 *Privacy (ground floor balcony)* - The ground floor balcony is to be provided with a fixed timber louvre privacy screen, angled so as to prevent downward viewing. Screening must be located on both ends and provide a minimum two metre return along the balustrade on both sides. Screening shall be constructed to a minimum height of 1.5m above finished floor level of the balcony. Details are to be provided prior to the issue of a construction certificate
- 4.4 *Privacy (first floor balcony)* - The first floor balcony is to be provided with a fixed timber louvre privacy screen, angled so as to prevent downward viewing. Screening must be located on both ends and shall be constructed to a minimum height of 1.5m above finished floor level of the balcony. Details are to be provided prior to the issue of a construction certificate
- 4.5 *Landscaping* - Tree removal is only permitted in accordance with the stamped approved plan. The remainder of the trees are to remain on site. Any approved tree removed is to be replaced with a native species of similar mature height in a suitable location prior to the issue of an Occupation Certificate
- 4.6 *Cut* - Details of all proposed excavation, earthworks and structural concrete are to be prepared and certified by a suitable qualified structural engineer and submitted to the principal certifying authority prior to the issue of a construction certificate. Consideration must be

- given to impacts on adjoining properties as a result of any excavation
- 4.7 *Attic area* - The attic area shall not be used for any habitable purposes. The attic shall be used for storage and non-habitable uses only. Access from the attic to outside the attic is prohibited. No doors are permitted to be constructed to provide access outside from the attic. The roof sheeting material adjoining the south western side of the attic must remain at all times. The area outside the attic shall not be used as a balcony or for any trafficable use
- 4.8 *Survey* - On completion of the frame and roof of the dwelling, a survey is to be submitted to the principle certifying authority demonstrating compliance with the RL's stipulated on the plan
- 4.9 *Privacy screening to fence line* - Privacy screening is to be provided along the South western boundary to further minimise opportunities for overlooking. Privacy screening is to consist of lattice or similar material to a minimum height of 400mm above the existing fence line. Permission must be sought from adjoining property owners to construct the privacy screening on the dividing fence. Alternatively the privacy screening must be contained wholly within the property boundaries.
- 4.10 *Attic windows* – The attic windows on the south western elevation are to be constructed of frosted glass.
5. Those persons who have made submissions be notified of the determination.

In accordance with Section 375A of the Local Government Act 1993, a DIVISION was then called with the following result:

For

Councillor Jim Aitken OAM
Councillor Robert Ardill
Councillor Kevin Crameri OAM
Councillor Greg Davies
Councillor Mark Davies
Councillor Tanya Davies
Councillor Ross Fowler OAM
Councillor Ben Goldfinch
Councillor Jackie Greenow
Councillor Prue Guillaume
Councillor Marko Malkoc
Councillor Kath Presdee
Councillor John Thain

Against

A LIVEABLE CITY

**8 Purchase of a New Emergency Response Vehicle for the Penrith State
Emergency Service**

'251 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Marko Malkoc

That:

1. The information contained in the report on Purchase of a New Emergency Response Vehicle for the Penrith State Emergency Service be received.
2. Council proceed with a motor vehicle subsidy application to the NSW State Emergency Service for the purchase of a new emergency response vehicle for the Penrith State Emergency Service.

9 Naming of a Park in St Marys

'252 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor Greg Davies

That:

1. The information contained in the report on Naming of a Park in St Marys be received.
2. Council endorse the naming of the sporting fields on Roper Road, Colyton as 'Kevin Dwyer Park' and make application to the Geographical Name Board for the official gazetting.
3. Following gazettal, an official naming ceremony be held at the sporting fields.

10 Federal Government 2010/2011 "Auslink Black Spot Program" Submissions

'253 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor Ross Fowler OAM

That:

1. The information contained in the report on Federal Government 2010/2011 "Auslink Black Spot Program" Submissions be received.
2. Council endorse the six projects listed under Table 1 of this report for submission to the Roads and Traffic Authority for funding under the Federal Government 2010/2011 "Auslink Black Spot Program".
3. The Roads and Traffic Authority be requested to investigate traffic safety on roads under its jurisdiction at locations indicated in Table 2 of this report.

11 Proposal to close parcel of land located between Reddington Avenue and Diamantina Close, St Clair

254 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Tanya Davies

That:

1. The information contained in the report on Proposal to close parcel of land located between Reddington Avenue and Diamantina Close, St Clair be received.
2. Investigations continue into the reclassification of the land and its potential subdivision and disposal, including possible disposal to the five landholders as suggested by Mr Robert Richardson.
3. Temporary fencing and security gates be erected as soon as possible to prevent access to this location during the investigation.

QUESTIONS WITHOUT NOTICE

QWN 1 Fundraising for Starlight Foundation

Councillor Marko Malkoc requested a report to Council outlining ways in which Council can promote the efforts of local junior Aaron Nielsen, in his walk from CUA Stadium in Penrith to Bondi Beach on 11 September 2009, to raise funds for the Starlight Foundation.

QWN 2 Telstra Pit - Cassia Close, St Clair

Councillor Tanya Davies requested a memo reply concerning a dangerous, broken cement pit, in Cassia Close, St Clair, seeking urgent contact to be made with Telstra to have this pit repaired.

QWN 3 Dangerous Trees behind Elouera Crescent, Claremont Meadows

Councillor Tanya Davies requested a memo reply concerning dangerous trees which are growing on Council owned land behind a resident's property in Elouera Crescent, Claremont Meadows, one of which has died and is leaning against the resident's fence.

QWN 4 Arms of Australia Inn Museum

Councillor Ben Goldfinch requested a memo reply concerning ownership of the land adjacent and behind the Arms of Australia Inn Museum which the Museum would like to use for the establishment of a regional museum.

QWN 5 Tree Pruning in South Penrith area

Councillor Mark Davies requested a memo reply to all Councillors concerning complaints received about the degree of tree lopping and pruning that has recently taken place in the South Penrith area.

QWN 6 Leave of Absence

Councillor Robert Ardill requested Leave of Absence from 9 August 2009 to 24 August 2009 inclusive.

QWN 7 Fire Safety Assessments and Reports

Councillor Ross Fowler OAM requested a report to Council outlining the feasibility of Fire Safety Assessments and Reports being dealt with under delegated authority, instead of being reported to Council.

QWN 8 St Marys Spring Festival

Councillor Jackie Greenow requested a memo reply to all Councillors on the possibility of Council entering a float in the forthcoming St Marys Spring Festival.

QWN 9 National Tree Planting Day

Councillor John Thain thanked Council staff involved for their efforts in the planting for National Tree Day, on 2 August 2009 at Greygums Oval.

QWN 10 Volunteer Training Seminar - Nepean Community College

Councillor Greg Davies declared a Non-Pecuniary Conflict of Interest - Less than Significant in this matter, as he is a member of the Nepean Community College Board, and left the meeting, the time being 8:30 pm.

Councillor John Thain requested that an amount of \$1,800 (\$600 each from South, North and East Wards) be allocated to the Nepean Community College for the purpose of conducting a Volunteer Training Seminar.

255 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Kevin Crameri OAM that the matter be brought forward and dealt with as a matter of urgency. His Worship the Mayor, Councillor Jim Aitken OAM, ruled that the matter was urgent and should be dealt with at the meeting.

256 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Kevin Crameri OAM that an amount of \$1,800 (\$600 each from South, North and East Wards) be allocated to the Nepean Community College for the purpose of conducting a Volunteer Training Seminar.

QWN 11 Advertising signage for Garage Sales

Councillor John Thain requested a memo reply concerning providing information to the community regarding the use of signs advertising garage sales, reminding residents that these signs should be removed upon conclusion of the garage sale, to avoid incurring fines.

Councillor Greg Davies returned to the meeting, the time being 8:32 pm.

QWN 12 Fencing of a Reserve in Erskine Park - Cnr of Kestrel Crescent

and Whistler Crescent

Councillor Greg Davies requested a report to Council outlining the cost of fencing the reserve in Erskine Park that is bounded by Kestrel Crescent and Whistler Crescent, to prevent access by vehicles and resultant antisocial behaviour.

QWN 13 Footpath Amenity Audit - Southern Side of Great Western Highway

Councillor Greg Davies requested a report to Council outlining the results and possible solutions and costs of the Footpath Amenity Audit carried out on the Southern side of the Great Western Highway between Monfarville Street and Marsden Road, St Marys on 28 July 2009.

QWN 14 Recycling of Batteries and Household Chemical Waste

Councillor Kath Presdee requested a memo reply to all Councillors concerning the feasibility of Council establishing opportunities to recycle batteries and other household chemical waste items, as an alternative to disposing of them through landfill.

QWN 15 Glenmore Loch

Councillor Prue Guillaume requested a memo reply to all Councillors providing an update on progress of improvements to Glenmore Loch and surrounds at Glenmore Park, including landscaping works, and whether Section 94 funds could be used to fund these works.

There being no further business the Chairperson declared the meeting closed the time being 8:35 pm.

I certify that these 35 pages are the Confirmed Minutes of the Ordinary Meeting of Penrith City Council held on 3 August 2009.

Chairperson

Date