

CONFIRMED MINUTES

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

ON MONDAY 24 AUGUST 2009 AT 7:35PM

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 Rev Neil Checkley.

PRESENT

His Worship the Mayor Councillor Jim Aitken OAM, Councillors Kaylene Allison, Kevin Crameri OAM (arrived 7:37pm), Greg Davies, Mark Davies, Tanya Davies, Ross Fowler OAM, Ben Goldfinch, Jackie Greenow, Prue Guillaume, Marko Malkoc, Karen McKeown, Kath Presdee and John Thain.

LEAVE OF ABSENCE

Leave of Absence was previously granted to Councillor Robert Ardill for the period 9 August 2009 to 24 August 2009 inclusive.

APOLOGIES

There were no apologies.

CONFIRMATION OF MINUTES - Ordinary Meeting - 3 August 2009

257 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor Ross Fowler OAM that the minutes of the Ordinary Meeting of 3 August 2009 be confirmed.

DECLARATIONS OF INTEREST

His Worship the Mayor, Councillor Jim Aitken OAM declared a Pecuniary Interest in *Item 11 - NSW Local Infrastructure Fund application for Caddens Release Area infrastructure*, as he owns property in an area that the report deals with. His Worship the Mayor, Councillor Jim Aitken OAM stated that he would leave the meeting and take no part during the debate and discussion on the item.

SUSPENSION OF STANDING ORDERS

258 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor Kevin Crameri OAM that Standing Orders be suspended to allow a member of the public to address the meeting, the time being 7:39pm.

Mr Richard Smith

Mr Smith, a member of the Mulgoa Bicentenary Committee, spoke in opposition of the recommendation and asked that Council provide a grant of \$5,000 to assist in putting the event on. Mr Smith spoke about the activities that will be taking place as a part of the celebrations and also requested Council provide funds for an appropriate monument and plaque to be installed in Mulgoa Park to commemorate the occasion.

RESUMPTION OF STANDING ORDERS

259 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor Kevin Crameri OAM that Standing Orders be resumed, the time being 7:47pm.

MAYORAL MINUTES

1 The passing of John Gribble

260 RESOLVED on the MOTION of Councillor Jim Aitken OAM seconded Councillor Kevin Crameri OAM that the Mayoral Minute on The passing of John Gribble be received.

REPORTS OF COMMITTEES

1 Report and Recommendations of the Local Traffic Committee Meeting held on 3 August 2009

261 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Greg Davies that the recommendations contained in the Report and Recommendations of the Local Traffic Committee meeting held on 3 August, 2009 be adopted, with an amendment to General Business item 4 to read Castlereagh Street as opposed to Castlereagh Road.

2 Report and Recommendations of the Access Committee Meeting held on 5 August 2009

262 RESOLVED on the MOTION of Councillor Kath Presdee seconded Councillor Karen McKeown that the recommendations contained in the Report and Recommendations of the Access Committee meeting held on 5 August, 2009 be adopted.

3 Report and Recommendations of the Policy Review Committee Meeting held on 17 August 2009

263 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Kevin Crameri OAM that the recommendations contained in the Report and Recommendations of the Policy Review Committee meeting held on 17 August, 2009 be adopted, with the exception of Item 1.

Councillor Mark Davies requested that Item 1 of the Policy Review Committee Meeting be referred to the Committee of the Whole as he had commercial information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and discussion of the matter in open meeting would be, on balance, contrary to the public interest.

DELIVERY PROGRAM REPORTS

A LEADING CITY

1 2008-2009 Management Plan ~ June Quarter and Year End Review

264 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Greg Davies that the information contained in the report on 2008-2009 Management Plan ~ June Quarter and Year End Review be received.

2 Summary of Investments & Banking for the period 1 July 2009 to 31 July 2009

265 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Kath Presdee

That:

1. The information contained in the report on Summary of Investments & Banking for the period 1 July 2009 to 31 July 2009 be received.
2. The Certificate of the Responsible Accounting Officer and Summaries of Investments and Performance for the period 1 July 2009 to 31 July 2009 be noted and accepted.
3. The graphical investment analysis as at 31 July 2009 be noted.

Having previously declared a pecuniary interest in Item 11, His Worship the Mayor, Councillor Jim Aitken OAM left the meeting , the time being 8:01pm.

The Deputy Mayor, Councillor Ross Fowler OAM then took the Chair, the time being 8:01pm.

11 NSW Local Infrastructure Fund application for Caddens Release Area infrastructure

266 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Karen McKeown

That:

1. The information contained in the report on NSW Local Infrastructure Fund application for Caddens Release Area infrastructure be received.
2. Council resolve to seek a loan of \$4,566,000 from the State Government through the NSW Local Infrastructure Fund for road upgrades for O'Connell Street (east), O'Connell Lane and Caddens Road (west) as detailed in this Report, to support the development of the Caddens Release Area.
3. Should the application be successful a further report be provided to Council confirming the loan repayment schedule and discussing any potential financial implications for Council.
4. A further Councillor Briefing on the Werrington Education, Living and Learning Precinct be arranged to provide an update for Councillors.

His Worship the Mayor, Councillor Jim Aitken OAM returned to the Chair the time being 8:03pm.

A CITY OF OPPORTUNITIES

3 NAIDOC Week 2009 Activities

267 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Kath Presdee that the information contained in the report on NAIDOC Week 2009 Activities be received.

A GREEN CITY

4 Applications for grant funding opportunities

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

That:

1. The information contained in the report on Applications for grant funding opportunities be received.
2. Council endorse the three grant applications outlined in the report.

5 Development Application DA08/0657 Review of Determination for Home Business-Barber at Lot 199 DP 240525 (No. 73) Maxwell Street, South Penrith. Applicant: Ian Dick; Owner: Robyn Dick and Ian Dick DA08/0657

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

That:

1. The information contained in the report on Development Application DA08/0657 Review of Determination for Home Business-Barber at Lot 199 DP 240525 (No. 73) Maxwell Street, South Penrith be received.
2. Development Application DA08/0657 Review of Determination for Home Business-Barber at Lot 199 DP 240525 (No. 73) Maxwell Street, South Penrith be approved for a period of two years, subject to the following conditions:

Standard Conditions

- | | | |
|-----|------|--|
| 2.1 | A02F | Approved Plans |
| | A021 | Business Registration |
| | A022 | Home Business (amended to read “ <i>the employment of not more than one person at any time</i> ”) |
| | A029 | Hours of operation |
| | A030 | No retail sales |
| | A043 | Air Conditioner |
| | D014 | Plant and Equipment Noise |

Special Conditions

- 2.2 The consent is limited to a 2 years period from the date of approval, and the use shall cease at that time. A further development application may be lodged before the expiration date for Council’s consideration of the continuation of the use
- 2.3 Customer visits to the site shall be arranged on an appointment only basis so that:
 - 2.3.1 No more than 1 customer is to be on the premises at any one time, and
 - 2.3.2 No more than 1 customer’s car is parked on the site at any one time
- 2.4 No signs are to be displayed on the property other than a single, non illuminated sign of maximum dimensions 1.2m x 0.6m indicating the occupation of the resident and to read “by appointment only”.

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 Kaylene Allison
Councillor Kevin Crameri OAM

Against

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 Karen McKeown
Councillor Kath Presdee
Councillor John Thain

- 6 Release Restrictive Covenant applying to Lot 119, DP 1088137 (No. 22)
Heaton Avenue, Claremont Meadows and Approve Development
Application DA09/0512 for the construction of a single storey dwelling.
Applicant: Kane Sultana and Amy Walkerden; Owner: Kane Sultana
and Amy Walkerden**

DA09/0512

270 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Marko Malkoc

That:

1. The information contained in the report on Release Restrictive Covenant applying to Lot 119, DP 1088137 (No. 22) Heaton Avenue, Claremont Meadows and Approve Development Application DA09/0512 for the construction of a single storey dwelling be received.
2. The terms outlined in the restriction on the use of land fourthly referred to in the Section 88b Instrument of the Conveyancing Act 1919 applying specifically to Lot 119 in DP 1088137 (known as No. 22) Heaton Avenue, Claremont Meadows and Lots 114 to 118 in DP1088137 (subject to an application being lodged to vary the restriction on these lots) be varied to allow the Inner Protection Area Asset Protection Zone to be reduced to 4.0m with the remainder being provided within the 11.0m road reserve.
3. The Common Seal of Penrith City Council be affixed to all necessary documentation to vary the covenant.
4. The submitted SEPP 1 be supported.
5. DA09/0512 for a Single Storey Dwelling on Lot 119 DP 1088137 (No. 22) Heaton Avenue, Claremont Meadows, be approved subject to the attached conditions:
 - 5.1 A001 Approved plans that are architecturally drawn
 - A008 Works to BCA requirements
 - A009 Residential Works DCP
 - A046 Obtain a Construction Certificate
 - D001 Implement approved sediment & erosion control measures
 - D007 Cut and fill
 - 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
K003 Drainage
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

- 5.2 *Bushfire Construction Level* - The dwelling shall be constructed in accordance with the provisions of "Planning for Bushfire Protection" December 2006, to a Level 1 construction under AS3959- 1999 "Construction of buildings in bushfire-prone areas". Furthermore, roofing shall have leafless guttering and valleys are to be screened to prevent the build-up of flammable material
- 5.3 *Landscaping* – Landscaping consisting of native shrubs are to be planted along the north eastern boundary forward of the front building line
- 5.4 *Registration of 88b instrument* - Prior to the issue of the Construction Certificate for the development, the variation of the restriction on the use of land fourthly referred to, in the Section 88B Instrument attached to Deposited Plan 1088137 shall be registered with Department of Lands
- The variation to the covenant shall be in the terms approved by Penrith City Council.

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 Kaylene Allison
Councillor Kevin Crameri OAM
Councillor Greg Davies

Against

Councillor Mark Davies
Councillor Tanya Davies
Councillor Ross Fowler OAM
Councillor Ben Goldfinch
Councillor Jackie Greenow
Councillor Prue Guillaume
Councillor Marko Malkoc
Councillor Karen McKeown
Councillor Kath Presdee
Councillor John Thain

- 7 Release Restrictive Covenant applying to Lot 204 DP 1093617 (No. 51)
Heaton Avenue, Claremont Meadows. Applicant: Masterton Homes Pty
Ltd; Owner: Ms Mary Camilleri DA09/0579**

271 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor Greg Davies

That:

1. The information contained in the report on Release Restrictive Covenant applying to Lot 204 DP 1093617 (No. 51) Heaton Avenue, Claremont Meadows be received.
2. The Restrictive Covenant fourthly referred to in the 88B Instrument attached to Lot 204, DP 1093617 be removed.
3. The Common Seal of Penrith City Council be affixed to the necessary documentation.
4. Development Application No. 09/0579 for the construction of a single storey dwelling be approved subject to the proposed conditions of Development Consent as follows:

Standard Conditions

- 4.1 A008 – Works to BCA requirements
- A009 – Residential Works DCP
- A019 – Occupation Certificate
- A041 – Construction in Bushfire Areas
- A046 – Issue of Construction Certificate
- D001 – Sedimentation and Erosion Controls
- D007 – Cut and fill of land requiring Validation Certificate
- D009 – Covering Waste Storage area
- E001 – BCA compliance
- E005 – Smoke Alarms
- H001 – Stamped plans and erection of site notice
- H002 - All forms of construction
- H011 – Engineering plans and specifications
- H013 – Further details of building components
- H014 – Slab design
- H015 – Termite protection
- H036 – Rainwater tank
- H037 – Safe supply from catchment
- H038 – Connection of rainwater tank supply
- H039 – Rainwater tank pumps
- H041 – Hours of work
- H034 – Bushfire roof sarking

I003 – Roads Act approval

K017 – Stormwater and sewerage plan

L001 – General landscaping

L008 – Tree preservation order

Q001 – Notice of commencement and appointment of PCA

Q005 - Occupation Certificate

Special Conditions

- 4.2 A street tree removal fee of \$380.00 must be paid for the loss of amenity. The tree must be removed by Council authorised Tree contractors. A suitable replacement tree must be planted in a suitable area on the footpath by an authorised contractor. Refer to Councils Landscape DCP for planting details and species
- 4.3 Prior to the issue of a Construction Certificate for the development, the removal of the Restriction on the Use of land numbered 4 in DP 27107 shall be registered with the Land and Property Information division of the Department of Lands.

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 Kaylene Allison
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 Karen McKeown
Councillor Kath Presdee
Councillor John Thain

Against

A LIVEABLE CITY

8 Tender Reference 25-08/09 Civic Centre Lift Refurbishment and Maintenance Contract

Councillor Prue Guillaume left the meeting the time being 8:12pm.

272 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Ben Goldfinch

That:

1. The information contained in the report on Tender Reference 25-08/09 Civic Centre Lift Refurbishment and Maintenance Contract be received.
2. The tender from Electra Lift Company Pty Ltd be accepted for the upgrade of three (3) lifts for a lump sum fixed price of \$422,800
3. The tender received from Electra Lift Company Pty Ltd for a 3 year maintenance contract be accepted (to commence on expiry of the 12 month defects liability period) for the annual cost of \$12,000.
4. A further report be brought to a future Policy Review Committee Meeting about Councillor engagement in the tender process.
5. Councillors be advised by memorandum of when a tender is being called.

9 2009 World Masters Games Baseball Competition at Samuel Marsden Reserve

273 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Ben Goldfinch

That:

1. The information contained in the report on 2009 World Masters Games Baseball Competition at Samuel Marsden Reserve be received.
2. Council allocate \$11,730 from the Recreation Reserve as a contribution towards the development of facilities at Samuel Marsden Reserve for the purpose of hosting the 2009 World Masters Games baseball competition.

A VIBRANT CITY

10 Mulgoa Bicentenary Celebrations - 7 November, 2009

Councillor Prue Guillaume returned to the meeting, the time being 8:16pm.

274 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Mark Davies

That:

1. The information contained in the report on Mulgoa Bicentenary Celebrations - 7 November, 2009 be received.
2. An amount of \$5,000 be allocated equally from all three Wards' voted works to the Mulgoa Bicentenary Celebrations, with sponsorship of the event by Penrith City Council being noted on the 'River Mountains publication'.

QUESTIONS WITHOUT NOTICE

QWN 1 Leave of Absence

Councillor Ross Fowler OAM requested Leave of Absence from 4 September 2009 to 16 September 2009 inclusive.

Councillor Marko Malkoc left the meeting, the time being 8:19 pm.

QWN 2 Hire of Stage for Bethany Fun Day

Councillor Prue Guillaume requested that an amount of \$250 of South Ward voted works be allocated to pay for the hire of the stage at the Bethany Fun Day on 30 October 2009, and that the bond be waived.

275 RESOLVED on the MOTION of Councillor Prue Guillaume seconded Councillor Karen McKeown 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.

276 RESOLVED on the MOTION of Councillor Prue Guillaume seconded Councillor Karen McKeown that an amount of \$250 from South Ward voted works be allocated to pay for the hire of the stage at the Bethany Fun Day on 30 October 2009, and that the bond be waived.

Councillor Greg Davies left the meeting the time being 8:20pm.

QWN 3 Traffic Calming Device - Acacia Avenue, Glenmore Park

Councillor Prue Guillaume requested a memo reply concerning the possibility of a traffic calming device being installed on Acacia Avenue, Glenmore Park, north of Azalea Court.

QWN 4 Footpath Paving Program

Councillor John Thain requested that the proposed footpath paving on Henry Lawson Avenue, between Dunheved Road and Singleton Avenue be moved as a priority under the footpath paving program and be put as a missing link from Henry Lawson Avenue.

Councillor Thain requested that a further report be brought back to the Council on the above matter.

QWN 5 Glenmore Park Junior Rugby League Club - Thank You

Councillor Prue Guillaume passed on to Council the thanks of the Glenmore Park Rugby League Club for Council's recent sealing of the section between the two amenities blocks on Ched Towns Reserve.

QWN 6 Leave of Absence

Councillor Kevin Crameri OAM requested leave of absence from 11 September to 19 September 2009 inclusive.

Councillors Greg Davies and Marko Malkoc returned to the meeting, the time being 8:24pm.

COMMITTEE OF THE WHOLE

277 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Prue Guillaume that the meeting adjourn to the Committee of the Whole to deal with the following matters, the time being 8:24pm.

1 Presence of the Public

CW1 RESOLVED on the motion of Councillor Kevin Crameri OAM seconded Councillor Jackie Greenow that the press and public be excluded from Committee of the Whole to deal with the following matters:

A Leading City

2 Commercial Matter - Leasing of Parts of "Community" Land under Council's Plan of Management to Girl Guides NSW & ACT over No 26 Trinity Drive, Cambridge Gardens & No 3 Trent Street, South Penrith

This item has been referred to Committee of the Whole as the report refers to information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and discussion of the matter in open meeting would be, on balance, contrary to the public interest.

3 Senior Staff Matter

This item has been referred to Committee of the Whole as the report refers to personnel matters concerning particular individuals and discussion of the matter in open meeting would be, on balance, contrary to the public interest.

4 Commercial Matter – South Penrith Library

This item has been referred to Committee of the Whole as the report refers to information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and discussion of the matter in open meeting would be, on balance, contrary to the public interest.

The meeting resumed at 8:53pm and the General Manager reported that the Committee of the Whole met at 8:24pm on Monday 24 August 2009, the following being present

His Worship the Mayor Councillor Jim Aitken OAM, Councillors Kaylene Allison, Kevin Crameri OAM, Greg Davies, Mark Davies, Tanya Davies, Ross Fowler OAM, Ben Goldfinch, Jackie Greenow, Prue Guillaume, Marko Malkoc, Karen McKeown, Kath Presdee and John Thain

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 Commercial Matter - Leasing of Parts of "Community" Land under Council's Plan of Management to Girl Guides NSW & ACT over No 26 Trinity Drive, Cambridge Gardens & No 3 Trent Street, South Penrith

RECOMMENDED on the MOTION of Councillor Greg Davies seconded Councillor Ross Fowler OAM

CW2 That:

1. The information contained in the report on Commercial Matter - Leasing of Parts of "Community" Land under Council's Plan of Management to Girl Guides NSW & ACT over No 26 Trinity Drive, Cambridge Gardens & No 3 Trent Street, South Penrith be received.
2. Council grant the leasing of No 26 Trinity Drive, Cambridge Gardens and part of No 3 Trent Street, South Penrith to Girl Guides NSW & ACT in accordance with Section 47A of The Local Government Act 1993.
3. Council agrees to enter into a Licence Agreement with Girl Guides NSW & ACT for a 5 year period in accordance with the terms and conditions outlined in the report, with the amendment that the Licence Agreement reflect that there will be a licence fee of \$1 per annum.
4. The Common Seal of the Council of the City of Penrith be placed on all necessary documentation.
5. A further report be provided to the Council after an audit has been undertaken of the condition of the Halls (including the possibility of fencing around the South Penrith Girl Guides Hall).

3 Senior Staff Matter

RECOMMENDED on the MOTION of Councillor Tanya Davies seconded Councillor Kaylene Allison

CW3 That the information contained in the report on Senior Staff Matter be received.

4 Commercial Matter – South Penrith Library

RECOMMENDED on the MOTION of Councillor Greg Davies seconded Councillor Mark Davies that the Recommendations from Item 1 of the Policy Review Committee Meeting held on 17 August 2009 be adopted, with the addition of the words “under the current offer” at the end of recommendation 2.

ADOPTION OF COMMITTEE OF THE WHOLE

278 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Kath Presdee the recommendations contained in the Committee of the Whole and shown as CW1, CW2, CW3 and CW4 be adopted.

There being no further business the Chairperson declared the meeting closed the time being 8:55pm.

I certify that these 15 pages are the Confirmed Minutes of the Ordinary Meeting of Penrith City Council held on 24 August 2009.

Chairperson

Date