

12 August 2009

Dear Councillor,

In pursuance of the provisions of the Local Government Act, 1993 and the Regulations thereunder, notice is hereby given that a **POLICY REVIEW COMMITTEE MEETING** of Penrith City Council is to be held in the Pasadena Room, Civic Centre, 601 High Street, Penrith on Monday 17 August 2009 at 7:30PM.

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

Yours faithfully

Craig Butler
Acting General Manager

BUSINESS

1. LEAVE OF ABSENCE

Leave of absence has been granted to:

Councillor Robert Ardill - 9 August 2009 to 24 August 2009 inclusive.

2. APOLOGIES

3. CONFIRMATION OF MINUTES

Policy Review Committee Meeting - 27 July 2009.

4. DECLARATIONS OF INTEREST

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

Non-Pecuniary Conflict of Interest – Significant and Less than Significant (The Code of Conduct requires Councillors who declare a significant non-pecuniary conflict of interest in an item to leave the meeting during discussion of that item)

5. ADDRESSING THE MEETING

6. MAYORAL MINUTES

7. NOTICES OF MOTION

8. DELIVERY PROGRAM REPORTS

9. URGENT REPORTS (to be dealt with in the delivery program to which the item relates)

10. CONFIDENTIAL BUSINESS

POLICY REVIEW COMMITTEE MEETING

MONDAY 17 AUGUST 2009

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MEETING CALENDAR

CONFIRMATION OF MINUTES

DELIVERY PROGRAM REPORTS

2009 MEETING CALENDAR
 February 2009 - December 2009
 (adopted by Council 8/09/08 and amended by Council 6/4/09)

	TIME	FEB	MAR	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
		Mon	Mon	Mon	Mon	Mon	Mon	Mon	Mon	Mon	Mon	Mon
Ordinary Council Meetings	7.30 pm	2		6	4❖		20	3	7✓	12	9	14
		23	23		25	29*		24	28^		30	
Policy Review Committee	7.30 pm		9			15	13		14@			7
		16#+	30@	27	18#		27	17		19	16#	

Meetings at which the Management Plan 1/4ly reviews are presented
 #+ General Manager's presentation – half year and end of year review
 < Briefing to consider Draft Management Plan for 2009/2010
 ❖ Meeting at which the Draft Management Plan is adopted for exhibition
 * Meeting at which the Management Plan for 2009/2010 is adopted.

^ Election of Mayor/Deputy Mayor
 @ Strategic Program progress reports [only business]
 ✓ Meeting at which the 2008/2009 Annual Statements are presented
 ☆ Management Plan Councillor Briefings/Public Forum (June)

- Council's Ordinary Meetings are held on a three-week cycle where practicable.
- Extraordinary Meetings are held as required.
- Policy Review Meetings are held on a three-week cycle where practicable.
- Members of the public are invited to observe meetings of the Council (Ordinary and Policy Review Committee). Should you wish to address Council, please contact the Public Officer, Glenn McCarthy on 4732 7649.

**UNCONFIRMED MINUTES
OF THE POLICY REVIEW COMMITTEE MEETING OF PENRITH CITY
COUNCIL HELD IN THE PASSADENA ROOM, PENRITH
ON MONDAY 27 JULY 2009 AT 7:13 PM**

PRESENT

His Worship the Mayor Councillor Jim Aitken OAM, Councillors Kaylene Allison, Robert Ardill (arrived 7:47pm), 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.

APOLOGIES

There were no apologies.

CONFIRMATION OF MINUTES - Policy Review Committee Meeting - 13 July 2009

PRC 56 RESOLVED on the MOTION of Councillor Kath Presdee seconded Councillor Ross Fowler OAM that the minutes of the Policy Review Committee Meeting of 13 July 2009 be confirmed.

DECLARATIONS OF INTEREST

There were no declarations of interest.

DELIVERY PROGRAM REPORTS

A CITY OF OPPORTUNITIES

1 Draft Planning for an Ageing Community Strategy

Community and Cultural Development Manager, Erich Weller and Community Programs Co-ordinator, Joe Ibbitson gave a presentation on the Draft Planning for an Ageing Community Strategy

Councillor Karen McKeown left the meeting, the time being 7:35pm.

Councillor Karen McKeown returned to the meeting, the time being 7:38pm.

Councillor Robert Ardill arrived to the meeting, the time being 7:47pm.

PRC 57 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Ross Fowler OAM

That:

1. The information contained in the report on Draft Planning for an Ageing Community Strategy be received
2. Council endorse the Draft Planning for an Ageing Community Strategy for Public Exhibition for a period of 28 days.
3. That a further report be prepared on the outcomes of the Public Exhibition process and any proposed changes to the documentation for consideration by Council.

4. A memo reply be provided to all Councillors outlining measures to encourage people to become involved in volunteering and also detailing the strategies employed to communicate the Draft Planning for an Ageing Community Strategy.

2 Housing Opportunities for Older People

PRC 58 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor John Thain

That:

1. The information contained in the report on Housing Opportunities for Older People be received
2. Council host a Mayoral Forum for accessible Housing Opportunities for Older People and Older People with disability in Penrith LGA as outlined in this report.

There being no further business the Chairperson declared the meeting closed the time being 8:13pm.

DELIVERY PROGRAM REPORTS

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A LEADING CITY

There were no reports under this Delivery Program when the Business Paper was compiled

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A CITY OF OPPORTUNITIES

Item	Page
1 South Penrith Library Branch Location	1



1 South Penrith Library Branch Location

Compiled by: Brian Steffen, Group Manager - Information & Customer Relations

Authorised by: Brian Steffen, Group Manager - Information & Customer Relations

Strategic Objective: *We have access to what we need*

Strategic Direction: *Our City's services and facilities are provided equitably, and can be accessed by those in need*

Executive Summary:

A decision is required soon as to whether Council enters into a new lease with the owners of the redeveloped Southlands Shopping Centre to accommodate the South Penrith Library Branch. At the same time several issues that have major financial and service implications have become evident.

The recommendations of this report are made in consideration of the need to maintain the current level of high customer satisfaction across the total Library service, while taking into account service levels, resource and staff allocation issues and operational costs. The following issues will place an extra burden on operational costs which makes the continuation of services at the proposed Southland location unsustainable:

- Increased rent at Southlands of \$58,200 (Lease details are commercial in confidence and have been provided confidentially to Councillors)
- To ensure safety and security of customers and staff a requirement for two staff to work at smaller remote branches (an additional \$111,000 for South Penrith assuming St Clair extended hours remain)

The total negative impact on the Council's 2010/2011 budget of these changes are \$169,200 if a library service within the new Southlands Shopping Centre is pursued.

The capacity of the total library service to accommodate this increase in future years will be further constrained by the recent NSW State Government decision to cancel the S94 library facilities plan. The annual income from this Plan was \$325,000 (2010/2011) and alternative funding will need to be found to maintain contemporary collections.

This Report recommends that Council should not take up the option of the lease in the redeveloped Southlands Shopping Centre and that St Clair Library continues its current extended hours of operations. Other innovative options for decentralised delivery of library services, including branch locations, will be evaluated as part of the current longer term review planning processes.

Background

The provision of library services is a Flagship service of Council, highly visible to the community and driven by customer needs which are constantly changing.

Penrith City Library currently provides a popular and well-patronised community service. Patronage (visits and borrowings) have increased over the last four years. Library staff have managed the growth with no increase in staff numbers while maintaining high customer service levels and introducing new technology, promotions and services.

Over the last two years, the emerging eLibrary service has grown in popularity as the range and variety of resources has increased. This will have a longer term impact on the frequency of in-person library visits and physical book loans.

The need for a disciplined approach to planning for library services in the longer term is evidenced by the establishment of a Councillor Working Party on the future Directions of Library Services and the engagement of a professional independent specialist to facilitate extensive consultation with as many stakeholders as possible at a separate planning and consultation session. The outcomes of the planning process will be evaluated, costed and agreed. These plans can then be incorporated into Council's longer term financial and strategic planning models to secure appropriate levels of funding to ensure permanency of the services well into the future.

While the longer term planning is critical to the future success of the Library Service, there are some short term operational decisions, in relation to the Southlands Library lease option, that must be made very soon to ensure the effective operation of the Library Service as a whole.

Current Situation

Prior to the closure of South Penrith Library in December 2008 Council operated five library branches:

1. *Penrith City Library* – Penrith Library is the central branch of the Penrith City Library service and the public area of the Library covers an area of approximately 3,000sqm.
2. *St Marys Branch Library* – St. Marys Public Library's public area covers approximately 400sqm.
3. *St Clair Branch Library* - St Clair Public Library has a total area of 464sqm in the St Clair Shopping Centre.
4. *Emu Plains Branch Library* – has a total area of 400sqm and is located in a separate building within the community precinct with a childcare/community centre.
5. *South Penrith Library* – currently closed due to Southlands Shopping Centre redevelopment.

1. Performance Data for Library Services

The net cost for Library services for 2009/2010 is \$5,760,653 as shown in table 1, below.

Table 1. Forecast Library Services Budget 2009 / 2010 Financial Year

Expenditure		
Operational Expenditure (includes 39 FTE staff representing \$2.85million or 50% of operational budget)		\$ 5,698,484
Projects:		
IM002 Library Book Purchases	\$ 964,250	
IM003 Library Community Computer Facilities	\$ 23,000	
IM016 Toy Library Operations	\$ 86,604	
IM018 History of Penrith (Volume 2)	\$ 50,000	
IM020 Library Special Projects-Building (NSW State Library)	\$ 58,500	
Library Special Projects-Promotion (NSW State Library)		
IM021 Library)	\$ 47,875	\$ 1,230,229
Total Expenditure		\$ 6,928,713
Income		
Operating Income		\$ 278,000
Library Per Capita Subsidy (NSW State Library)		\$ 328,456
Grant Income (NSW State Library)		\$ 86,604
Section 94 Library Book Funding		\$ 475,000
Total Income		\$ 1,168,060
Net Cost		(\$ 5,760,653)

Table 2 below summarises the Key Performance Indicators for each Library branch and illustrates the high cost per visit and loan associated with smaller branches.

Table 2 Summary of Key Performance Indicators for Library Branches

KPI		Penrith	St Marys	St Clair	Sth Penrith	Sth Penrith (if reopened)	Emu Plains
Cost per visit	\$8.71 (avg)	\$7.90	\$7.57	\$12.51	\$6.09	\$8.24*	\$34.77
Cost per loan	\$6.44 (avg)	\$5.60	\$5.92	\$9.45	\$7.20	\$9.73	\$15.70
Loans per hour	85	174	50	33	23		16
Number of Loans pa	918,947 (total)	634,331	171,108	51,787	44,817 (07/08)		16,904
Number of visits pa	658,174 (total all branches)	449,038	133,818	39,122	52,935 (07/08)		7,622
No. of Members	69,803 (total all branches)	52,975	10,103	4,291	1,683		751

Note: Operating costs include an allocation of corporate Library overheads e.g. computer support.
* Only additional rent and staff costs have been added. Not including toy library and home visits.

2. Borrowing (Loans)

Library loans have increased significantly over the four years to 2009 and there has been a significant increase in the number of items being borrowed.

Table 3 Total Library Loans 2005 to 2009

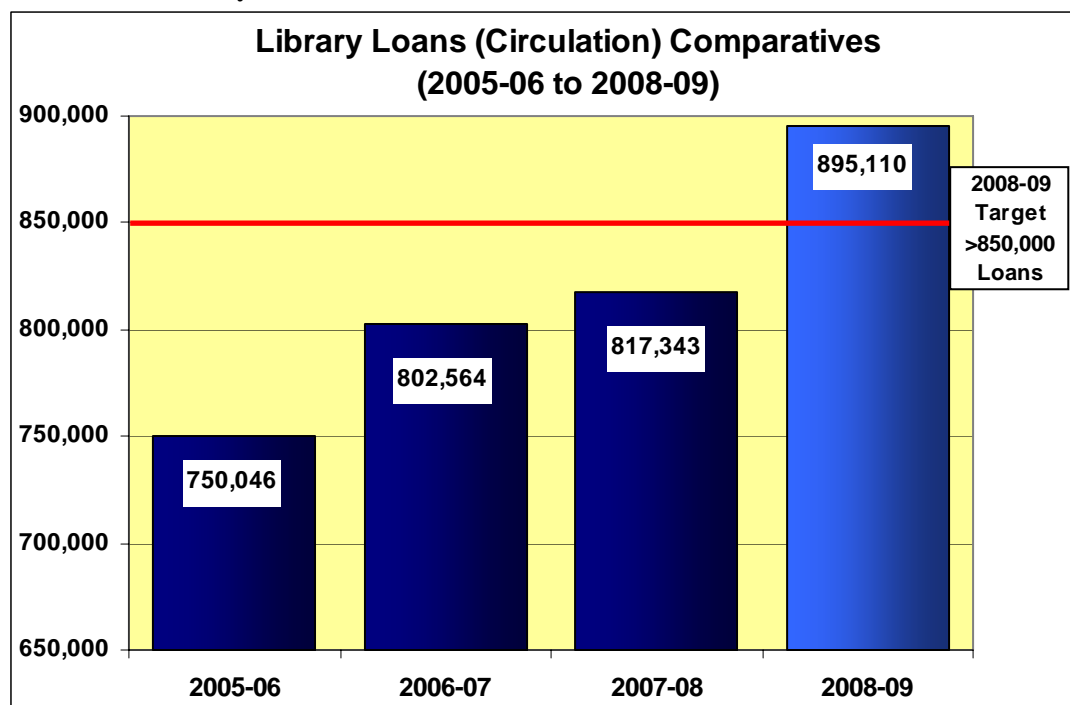


Table 4 below shows the number of loans by individual branches. The marked difference in the quantum of loans affects the cost per loan.

The closure of South Penrith library has increased loans at the other branches, mainly at Penrith and Emu Plains. The closure of Penrith Library for two weeks in April 2008 also increased the loans at Emu Plains.

Table 4 – Library Loans by Branch

Branch	2005-06	2006-07	2007-08	2008-09
<i>Penrith</i>	510639	550499	550351	634331
<i>St Marys</i>	151076	159182	164340	171108
<i>St Clair</i>	46704	47679	44998	51787**
<i>Sth Penrith</i>	33356	37389	44817	20980*
<i>Emu Plains</i>	8287	7815	12837	16904

* South Penrith Library closed December 2008.

** St Clair Library extended its opening hours from February 2009 (from 24 hrs pw to 41.5 hrs. pw)

3. Electronic Access to ‘My Library’ via the Web

In addition to visiting and borrowing from physical library branches, library members are now able to electronically access the *My Library* facility via the web.

There were 15,405 online library transactions during 2008-2009.

The electronic *My Library* service allows members to check their loans, renew their loans, check their outstanding charges, reserve titles and receive alerts for new books,

The *My Library* facility currently has subscriptions for 30 services, including databases, home tutor and ebooks for library members. Within the next 2 months library members will also be able to download audio books via the web and transfer content to MP3s or Ipods.

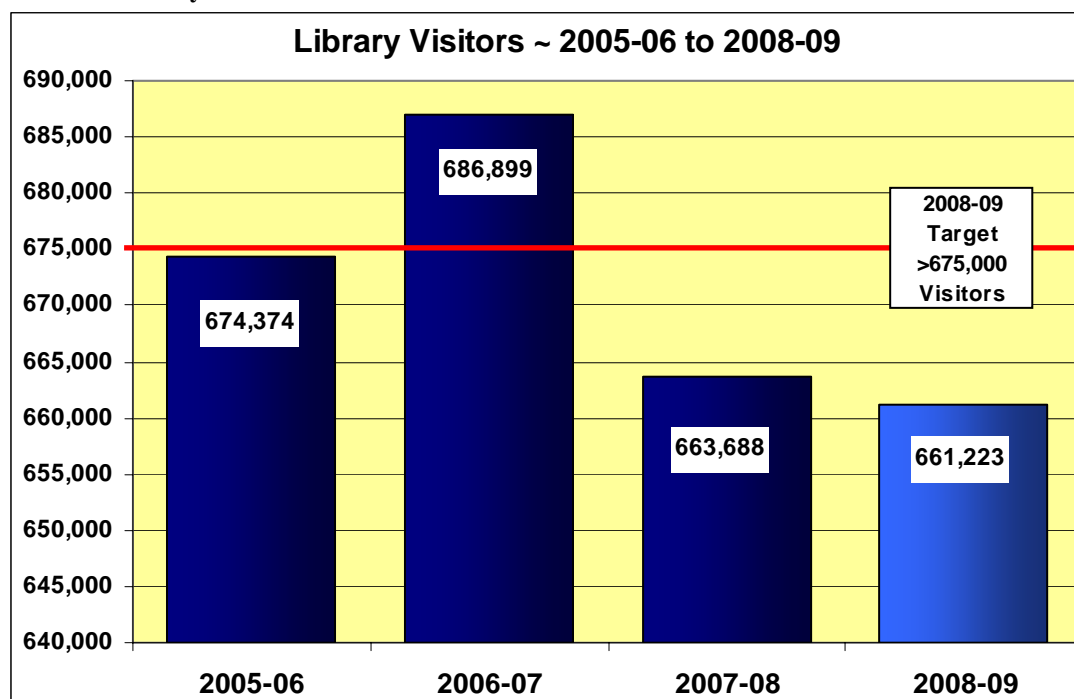
These new services are effectively being provided from an “e library” (or ‘virtual’ branch) via the Library’s Web Catalogue located on Council’s website.

This emerging eLibrary service is growing in popularity and as the range and variety of resources increases, it will have a longer term impact on the frequency of in-person library visits.

4. Library Visits

The graph below shows the number of visits to library branches has declined from the previous year. It should be noted however that although visitor numbers continued to decline slightly at Penrith for 2008-2009, loan trends indicate that although customers might be visiting less frequently, the same numbers of customers are borrowing more items per visit. The closure of South Penrith Library for six months has also impacted on the total visitor numbers for 2008-2009.

Table 5 – Library Visits



The number of visits for each branch is displayed in Table 6 below. The number of visits to the St Clair branch has increased significantly with a weekly average of 575 to 1,013 visits. The increase in visits to Emu Plains can be attributed to the closure of South Penrith in December 2008 and the two week closure of Penrith Library for refurbishments.

Whilst South Penrith and Emu Plains experienced an increase in the number of visits the cost per visit is significant with a visit to South Penrith (if reopened) and Emu Plains costing \$8.24 and \$34.77 respectively.

Table 6 Library Visits by Branch

Library Branch	2005-06	2006-07	2007-08	2008-09
<i>Penrith</i>	473474	471285	437692*	451347
<i>St Marys</i>	122042	131624	133631	134458
<i>St Clair</i>	32437	33773	32833	39124
<i>Sth Penrith</i>	42379	46175	52935	28672**
<i>Emu Plains</i>	4042	4042	6597	7622

* Penrith Library closed for 2 weeks in April 2008

**South Penrith closed for six months

5. New Members

The table below indicates the total number of new members joining the Library and that there is a declining trend in new members over the last four years. The total number of Library Members as at 30 June 2009 is 69,803.

Table 7 New Library Members

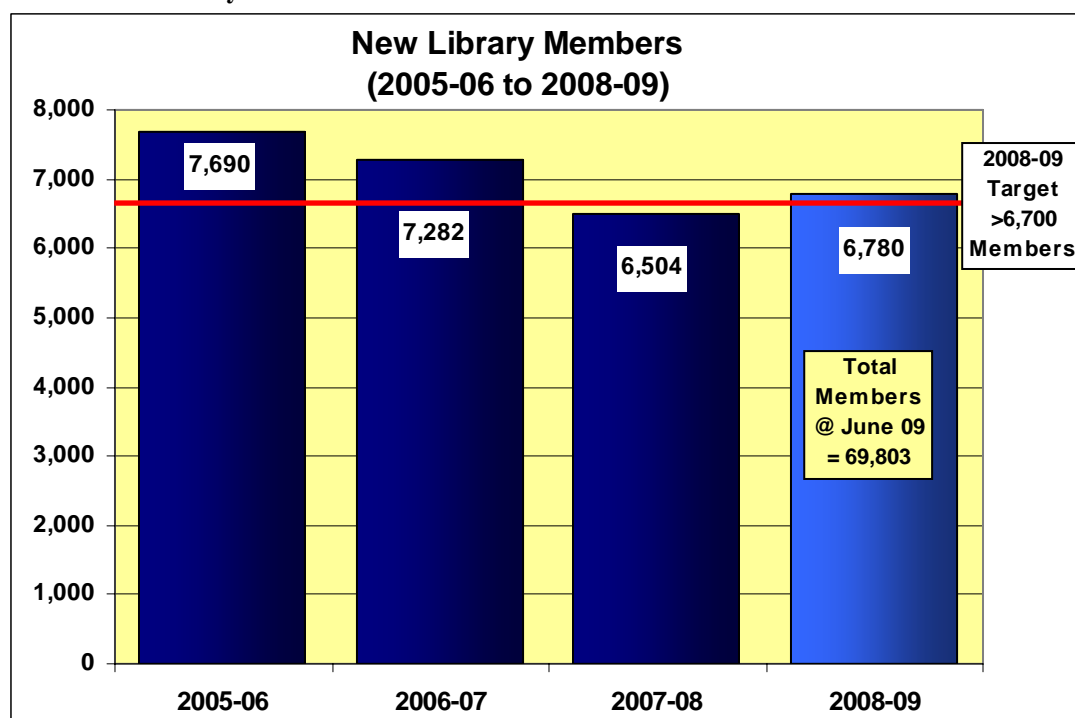


Table 8 below shows the number of new Library members by branch.

Table 8 - New Library Members by Branch

Library Branch	2005-06	2006-07	2007-08	2008-09
<i>Penrith</i>	5348	5001	4181*	4559
<i>St Marys</i>	1506	1423	1402	1289
<i>St Clair</i>	513	587	545	718
<i>Sth Penrith</i>	256	224	271	96**
<i>Emu Plains</i>	67	47	105	118

* Penrith Library closed for 2 weeks in April 2008

** South Penrith closed for six months

Internet Use at Branches

The use of the internet at branches has proven increasingly popular since their introduction to smaller branches in late 2007. St Clair has experienced a significant increase in internet use since the opening hours were extended in February 2009. Emu Plains internet use is underutilised, possibly representing the demographics of its members i.e. high percentage of residents owning their own PC at home.

Internet use hours per month

Branches	2008-2009
Penrith & St Marys	2533
South Penrith (6 months)	53.5
St Clair	47.5
St Clair (after South Penrith closure & extended hours)	148.5
Emu Plains	8.5
Emu Plains (after South Penrith closure)	9.7

7. Small Branch Service Delivery Analysis

Any decision regarding the future of the South Penrith branch has repercussions for other smaller branches, for the service levels already applying at the larger Penrith and St Marys libraries and the extended opening hours at St Clair which is currently operating with the transfer of South Penrith staff hours. The Library must consider the best options in terms of customer service, staff and branch utilisation, cost efficiencies and sustainability of operations.

Given the current Library staff capacity for providing customer service shifts and service support for the whole of the library operation, together with the current growth in loans, the Library is unable to provide any additional staff hours to increase the total number of opening hours across the service, or to increase the number of staff working on a service desk shift at any one time.

Recent issues impacting Library Services:

- Following recent security issues and a review of risks at single person remote branches, it has been decided that, for safety and security of customers and staff, remote branches will operate with two staff members. Previously both South Penrith and Emu Plains Libraries had operated with one staff member only. The St Marys

Branch Library has also recently experienced safety and security issues around closing at 8.00 pm. Council's security contractor has now been engaged to assist the staff to close down and to safely exit the building at night and this will add approx \$12,000 per annum to the Library's operating budget.

- The Library has received S94 Library Facilities Plan funding contributions for library books since 2000-2001. This avenue of funding has now ceased due to its cancellation by the NSW Minister of Planning. In 2009-2010, S94 funding is \$475,000 out of a total "book budget" of \$964,250. The total impact on revenue from 2010 -2011 budget is \$325,000 per annum. The removal of this significant funding option for books will negatively impact the established quality of service, as well as the ability to resource and maintain contemporary collections for multiple branches.

7.1 South Penrith Library

The redevelopment of the Southlands Shopping Centre resulted in the closure of the South Penrith branch of the Library in December 2008. This branch was the smallest (in terms of floor space at 167sqm) of any of Penrith City Library's branches.

The opening hours at the time of closing were:

Monday-Friday	10.00am. - 1.00pm & 2.00pm - 5.30 pm
Saturday	9 am - 1 pm
Total opening hours per week = 36.5	
The Library was staffed by one staff member.	

The Southlands Shopping Centre management are waiting for confirmation from Council as to whether the Library will return to the Centre now that rental and lease negotiations with Council's Property Development Department have been completed.

Additional rental for the redeveloped Centre is \$58,200 excl. GST including outgoings for a 3 year lease - this in line with market rents for similar floor space. A 5% annual increase until next market review in 2012 will be charged.

Financial implications:

1. Rental costs

An additional cost of \$58,200 excl GST and including outgoings would be required for annual rental if the decision was made to re-open the branch in the redeveloped Southlands Shopping Centre. A 5% per annum increase in rental over the next 3 years will also apply.

2. Staff costs

Additional staff costs of \$111,000 (to FTE staff) would be required to ensure the safety and security of customers as well as maintaining the current extended operating hours at St. Clair.

Group Manager Finance Comments

An amount of \$95,000 (1 Staff member and Rental) has been included in the current 2009-10 budget. At the time of the budget development for the current financial year the new rental figures for the South Penrith library were unavailable. This rental increase coupled with the additional staffing costs now identified have a total additional impact of \$169,200 per annum (\$104,600 in 2009-10). This needs to be carefully considered in a budget year that has already seen a number of challenges presenting a balanced starting budget. Council's financial position was discussed in some detail in a report on grant funding to the Ordinary Meeting of 3 August and it is likely that there will be other financial challenges arise during the remainder of the financial year. There is no identified capacity in the June 2009 Quarterly Review to contribute towards the 2009-10 budget.

If Council wishes to continue the South Penrith library operations then the ongoing costs for 2010-11 will form part of the base budget however the Long Term Financial Model indicates that the first draft budget for the next two years will be a deficit which will be increased if this option is exercised. Existing programs and services are being critically examined for any additional capacity however there may only be minor efficiency gains identified.

Service Delivery at the Emu Plains branch also needs to be considered as the figures discussed earlier in this report indicate an extremely high cost per visitation and per loan and it may be more effective to deliver this service in an alternative manner.

It is disappointing that the s94 Library facilities plan is no longer valid as it has been an important contributor to the quality, size and contemporary nature of the library collection. Alternative funding, the magnitude of which is still to be discussed, will also need to be sourced for 2010-11 onwards.

Alternative options for a Library Service Presence in South Penrith

Prior to South Penrith branch closing in December 2008 alternative locations such as neighbourhood centres and Schools were evaluated without success.

If Council were to decide not to return to the Southlands Shopping Centre, other longer term options could include:

1. Awaiting future redevelopment plans at South Penrith. A library service delivery option in potential new Council owned building with other Council and community services.

The Council's Group Manager ~ Leadership has indicated that the Urban Study and draft Urban Strategy currently being undertaken advocates the principle of co-locating community activities and services to develop a 'community hub', and this indicates a future opportunity for locating the library on Council's land within the South Penrith precinct.

2. As part of the Library's current longer term planning review process, other innovative options for a library service presence would be evaluated. Although all options would require further analysis and budget modelling, these could include:

- **Pick up/return station**
Provide local access for library members wanting to return items or pick up reserves requested via My Library over the internet.
- **Home delivery service**
Possible expansion of the Home Library Volunteer service to the aged community.
- **Community Bus**
Subject to availability.

7.2 St Clair Library

- Up until February 2009, St Clair Library had limited opening hours:
1.30pm - 5.30pm Monday to Friday and 9.00am - 1.00pm Saturday, totalling 24 hours per week with 2 staff available.
- Over a number of years there have been regular requests from the public and feedback through Customer Service surveys for extended opening hours at St Clair Library. Since February 2009 (and the closure of South Penrith Library), St Clair has been able to extend its hours, with the availability of the staff normally rostered for the South Penrith Library, to 10.00am - 5.30pm Monday to Friday and 9.00am - 1.00pm Saturday, totalling 41.5 hours per week.
- The St Clair shopping centre has recently been undergoing a major refurbishment, including extensions, which is bringing additional traffic through the centre and potentially additional customers to the Library.
- Data for February to the end of June 2009 (the period covering increased opening hours) has shown an increase in loans of 27% over the same period last year. The Internet usage hours have tripled since the increase in hours. Additionally, customer visits to St Clair Library have almost doubled since the extended hours and numbers of new people joining the Library has also doubled.
- Based on the first five months of the extended hours, it is clear that the increase to opening hours has had a major benefit to library service utilisation levels for loans, visits, membership and internet usage at St Clair.

RECOMMENDATION

That:

1. The information contained in the report on South Penrith Library Branch Location be received.
2. Council not take up the option of the lease for the South Penrith Branch Library in the redeveloped Southlands Shopping Centre.
3. Other innovative options for decentralised delivery of library services be evaluated as part of the current longer term review planning process.
4. St Clair Library continues its current extended hours of operation.

ATTACHMENTS/APPENDICES

There are no attachments for this report.

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A GREEN CITY

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2	Unauthorised Business Operating in Rural Areas	14



2 Unauthorised Business Operating in Rural Areas

Compiled by: Anthony Price, Acting Environmental Health Manager

Authorised by: Anthony Price, Acting Environmental Health Manager

<p>Strategic Objective: <i>Our natural habitats are healthy</i> Strategic Direction: <i>The City's catchments are healthy</i></p>

Executive Summary:

At its Ordinary Meeting of 20 July 2009, Council resolved “*that all matters relating to the issue of orders and the commencement of proceedings relating to unauthorised business activities in rural areas be deferred until after the LEP process for Stage 1 is finalised by the Council*”.

It is possible for some unauthorised business activities to present a significant risk of harm to human health, property or the environment. For example, waste facilities and transport or works depots have been found to operate within rural areas. Poorly operated waste facilities (e.g. skip bin businesses) have the potential to generate offensive noise or cause land contamination. Transport and works depots (e.g. trucking and other businesses involving heavy plant and machinery) also have the potential to impact on the rural amenity by way of noise, traffic generation and damage to roads. Some of these activities may also present risks to public safety.

Council may be placed in a position of liability if appropriate action is not taken in relation to unauthorised business activities that have the potential to cause significant harm.

This report has been prepared to provide Council with information on the land use compliance process, and to seek clarity about Council’s resolution. This report recommends that Council excludes unauthorised business activities that are likely to present a significant risk to human health, property or the environment from its previous resolution.

Background

At its Ordinary Meeting of 20 July 2009, Council resolved “*that all matters relating to the issue of orders and the commencement of proceedings relating to unauthorised business activities in rural areas be deferred until after the LEP process for Stage 1 is finalised by the Council*”.

This resolution was passed after discussion about the draft Local Environmental Plan, Caravan Repair businesses operating within rural areas, and whether a broader range of business activities should be permissible within rural zones.

Council Compliance Officers are currently implementing this resolution, although, the need has arisen to seek clarification from the Council in relation to matters that are likely to present a significant risk of harm to human health, property or the environment.

Summary of Land Use Compliance Process (Unauthorised Business)

After completing an inspection of an unauthorised business, the first action taken by an Officer is typically to discuss issues of non-compliance with the business owner. The Environmental Planning and Assessment Act Order process is explained. Business owners may also be provided information on the approval process.

A Notice of Intention to Serve an Order (NISO) is then sent to the owner of the unauthorised business. This Notice provides general zoning information and explains why the business activities are considered to be either unauthorised or prohibited. The process for making representations to Council is also explained in a covering letter. By law, an Order can not be issued without first sending a NISO and then considering any representations.

After considering representations, a decision is made to either proceed with issuing an Order as proposed, to issue an amended Order, or not to proceed with an Order.

Council's Compliance Team understands the importance of retaining business and employment opportunities within the City. It is normal practice to negotiate reasonable timeframes with owners to achieve compliance outcomes. If a business is a significant employer, the owner is usually referred to Council's economic development staff for assistance finding a more suitable location within the City. If the circumstances warrant it, Orders have also been issued with an extended compliance period. This generally occurs when a genuine case of hardship is demonstrated, or if there is an opportunity to obtain a development approval within that time. These longer timeframes are typically not provided unless the business owner demonstrates a genuine desire to comply with the planning laws and offers a commitment to scale back unauthorised activities in the meantime.

Significant Risk of Harm

It is possible for some unauthorised business activities to present a significant risk of harm to human health, property or the environment. For example, waste facilities and transport or works depots have been found to operate within rural areas. Poorly operated waste facilities (e.g. skip bin businesses) have the potential to generate offensive noise or cause land contamination. Transport or works depots (e.g. trucking and other businesses involving heavy plant and machinery) also have the potential to impact on the rural amenity by way of noise, traffic generation and damage to roads.

Officers also assess whether activities are likely to have a significant impact on natural assets such as waterways and natural bushland. In general, inappropriately managed industrial type activities are more likely to cause harm, including the degradation of sensitive environmental areas, impacts on rural amenity and possible risks to public safety.

Council may be placed in a position of liability if appropriate action is not taken in relation to activities that have the potential to cause significant harm. Council's legal section has confirmed that if Council is aware of such activities and does not take appropriate steps that it may be placed in a position of liability e.g. if an activity causes damage to property or an accident results in harm to a person.

It is important to note that environmental impacts and other impacts (or risks) are considered as part of the development assessment process. Business activities that commence without approval will not have been subject to this assessment process. As a result, unauthorised businesses may not be implementing appropriate management practices to manage their associated impacts.

Conclusion

Some unauthorised business activities that occur in rural areas have the potential to present a significant risk of harm to human health, property or the environment. Examples of harm include, the degradation of sensitive environmental areas, water pollution, land contamination, noise and odour impacts, damage to property, and risks to public safety.

Council may be placed in a position of liability if appropriate action is not taken in relation to unauthorised business activities that have the potential to cause significant harm.

It is therefore recommended that unauthorised business activities that have been assessed and found to present a significant risk of harm be excluded from Council's resolution at its Ordinary Meeting of 20 July 2009.

RECOMMENDATION

That:

1. The information contained in the report on Unauthorised Business Operating in Rural Areas be received.
2. All matters relating to the issue of orders and the commencement of proceedings relating to unauthorised business activities in rural areas be deferred until after the LEP process for Stage 1 is finalised by the Council, with the exception of those matters that have the potential to present a significant risk of harm to human health, property or the environment.

ATTACHMENTS/APPENDICES

There are no attachments for this report.

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A LIVEABLE CITY

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3 Development Contributions Plan Review

Compiled by: Wayne Trew, Project Coordinator Development Contributions
Natasha Baker, Senior Environmental Planner

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Strategic Objective: *Our physical infrastructure is adaptable, and responds to changing needs*

Strategic Direction: *The City's infrastructure responds to community needs, and is provided when we need it*

Executive Summary

On 31 May 2009, the Minister for Planning issued a Direction to Penrith City Council to undertake a review of its contribution plans which exceed the \$20,000 contribution per lot threshold. The review is part of the recent planning reforms, and is intended to make housing more affordable. The Ministerial Direction provided guidelines for actioning savings and requested a progress report from Council by the end of August 2009.

The purpose of this report is to advise Council of the progress of reviews of the Glenmore Park Stage 2, Werrington Enterprise Living and Learning (WELL) Precinct and Claremont Meadows Stage 2 Development Contribution Plans.

In summary, we have identified savings in the Glenmore Park Stage 2 and WELL Development Contributions Plan which are outlined in this report. In respect of the Claremont Meadows Stage 2 Contributions Plan, considerable development and expenditure has already occurred in this estate which, in our view, would make it inequitable now to adjust. In addition, the contributions in this Plan are significantly lower than Council's other new urban area contribution rates.

The Ministerial Direction also requires Council to undertake an independent assessment of its open space needs and district facilities, looking at the apportionment of these facilities and the nexus to new development. We are currently seeking expressions of interest from consultants to undertake the independent assessment. The Direction also requires the completion of a business plan for those district facilities that are not listed as key community infrastructure.

This report recommends that Council forward a statement to the Minister, in accordance with her Direction, outlining progress with its Contribution Plan Review. The report also recommends that the Minister be requested to make new Contribution Plans for Glenmore Park Stage 2 and the WELL Precinct, in accordance with the revised amounts detailed in this report, and remake the Claremont Meadows Stage 2 unchanged and as adopted by Council.

Background

In 2008 the State Government announced a review of infrastructure contributions in NSW. The objective of the review was to ensure that the contribution framework was supporting the State's housing and employment targets. The planning reforms included extensive changes to the way in which local Councils will be able to levy new development for infrastructure.

On 13 January 2009 the Minister for Planning issued a Ministerial Direction requiring that Local Infrastructure Contributions be limited to a threshold of \$20,000 per lot, with the limit applying from 30 April 2009 unless an exemption has been granted. Penrith City Council's Contribution Plans affected by the Direction are:

- Glenmore Park Stage 1
- Glenmore Park Stage 2
- Werrington Enterprise Living and Learning (WELL) Precinct
- Claremont Meadows (Amendment No 1)
- Penrith City District Open Space
- Cultural Facilities
- Library Facilities.

A submission was made to the Minister seeking an exemption to the \$20,000 per lot threshold. We also met with the Local Contribution Review Panel which was set up by the Department of Planning (DoP) to review submissions. The Minister subsequently issued a further Direction, on 31 May 2009. In summary, it advised:

- Penrith Council is to be exempt from the \$20,000 per lot threshold for Glenmore Park Stage 1, WELL Precinct and Claremont Meadows Stage 2 while the Council completes its review of its Contributions Plans.
- The Minister acknowledged Council's current progress and negotiations to reduce the impact of contributions in Glenmore Park Stage 2. A maximum rate has been imposed on Glenmore Park Stage 2, which will reduce the contributions by between \$2,000 and \$3,000 per lot.
- The contributions plans for WELL Precinct and Claremont Meadows also have to be reviewed, together with Glenmore Park Stage 2.
- The contributions plans for Open Space and Cultural Facilities has to be independently reviewed. This review includes the application of open space rates, a review of the funded facilities, and the preparation of a business plan.
- The contribution for library books through the Library Facilities Plan is not considered appropriate and Council has been instructed to cease applying this levy.
- By the end of 2009 a number of actions are to be completed, including a review of certain plans, review of open space rates and district facilities, and the independent assessments.

Council officers are responding to the Minister's Direction by:

- internally reviewing the Contributions Plans for Glenmore Park Stage 2, the WELL Precinct and Claremont Meadows Stage 2. This review has now been completed.
- seeking an independent review of the Open Space and District Facilities Plan, which will include the preparation of a business plan. A brief has been prepared and sent to a number of consultants, seeking expressions of interest. This process is discussed in more detail below.

Review of Contributions Plans

1. Glenmore Park Stage 2

Glenmore Park Stage 2 is one of Council's adopted new urban areas and is planned to deliver around 1,600 dwellings. The Glenmore Park Stage 2 Development Contributions Plan was adopted by Council in November 2007. It provides the framework for the provision of public facilities, and the mechanism for collecting contributions towards those facilities in this new urban area. The plan identifies a range of required capital works and associated cost estimates that support the new urban development.

The Minister's Direction identifies a cap for contributions in the Glenmore Park Stage 2 Plan at \$36,534 for the Surveyors Creek catchment and \$41,617 for the Western Precinct Catchment. These amounts include the contributions also required through Council's adopted 'District Open Space' and 'Cultural Facilities' Contributions Plans. The Minister has also directed Council to find further savings in both of these plans.

The review has identified savings in the following areas:

1. The revaluation of the land has identified reduced land acquisition costs reflecting current market conditions
2. Reduction in the area required for the upgrade of Bradley Street, reducing land areas and costs for acquisition, and
3. Reduced embellishment works for Open Space, based on benchmarking against, and consistent with, other similar local Contributions Plans.

The identified reductions per lot in the adopted Glenmore Park Stage 2 Contributions Plan (rates are indexed to April 2009) are:

	Reduction per lot	Final Contribution rate per lot	Total Contribution <i>with 'District Open Space' and 'Cultural Facilities' Plans</i>
Surveyors Creek catchment	\$3,873	\$26,427	\$31,616
Western Precinct catchment	\$4,566	\$30,713	\$35,901

2. Werrington Enterprise Living and Learning (WELL) Precinct

The WELL Development Contributions Plan applies to the WELL Precinct, which is generally bounded by the Great Western Railway line to the north, Caddens Road to the south, Gipps Street to the east, and the suburb of Kingswood to the west. WELL Precinct comprises a number of sub precincts for new residential / employment areas including Caddens, South Werrington Urban Village, Werrington Mixed Use Area and Werrington Enterprise Park (which is a major employment area) and Claremont Meadows Stage 2 (which has a separate Section 94 plan, as discussed later in this report).

The contributions in the WELL Plan are \$47,620 for the Caddens Claremont Creek catchment, \$43,810 for the Caddens Werrington Creek catchment and \$49,954 for the South Werrington Urban Village catchment per dwelling/lot. These contribution rates rise to \$52,808 per dwelling/lot, \$48,998 per dwelling/lot and \$55,142 per dwelling/lot respectively with the addition of the District Open Space and Cultural Facilities Contributions Plans (rates indexed to April 2009).

The review has identified savings in the following areas:

1. Caddens western boundary land acquisition is no longer required due to private ownership arrangements with the Anglican Retirement Village,
2. Removal of east- west collector road in South Werrington Urban Village (acquisition and construction costs),
3. Removal of the French Street extension (acquisition and construction costs). This infrastructure was to assist with access to the UWS railway station proposal, which has now been abandoned, and
4. Reduced embellishment works for Open Space, based on benchmarking against, and consistent with, other similar local Contributions Plans.

The identified reductions per lot in the adopted WELL Contributions Plan (rates are indexed to April 2009) that have been identified are:

	Reduction per lot	Final Contribution rate per lot	Total Contribution with 'District Open Space' and 'Cultural Facilities' Plans
Caddens (Claremont Creek catchment)	\$3,718	\$43,902	\$49,090
Caddens (Werrington Creek catchment)	\$3,690	\$40,120	\$45,309
South Werrington Urban Village	\$9,975	\$39,979	\$45,168

3. Claremont Meadows Stage 2 (Amendment No 1)

The Claremont Meadows Stage 2 Section 94 Contributions Plan was reviewed in 2004 to contemporise its approach to the delivery of the remaining facilities required to support both stages of the Claremont Meadows estate. This included a review and consideration of more efficient outcomes for the delivery of children's services facilities and other community facilities to be established in the estate and the rationalisation of local open space and water management facilities. The Plan also provides for road works, including the upgrading of Caddens Road and its intersection with Gipps Street.

The contributions under the Claremont Meadows Development Contributions Plan are \$18,348 per dwelling/lot for the South West Precinct (west of Claremont Creek), \$18,501 per

dwelling/lot for the Eastern Precinct and \$27,340 per dwelling/lot for the South West Precinct (east of Claremont Creek). These contributions rise to \$23,537 per dwelling/lot, \$23,690 per dwelling/lot and \$32,528 per dwelling/lot respectively with the addition of the District Open Space and Cultural Facilities Contributions Plans (rates are indexed to April 2009). The development of this estate is well advanced.

Given this, a reduction in the infrastructure items is likely to provide an inequitable situation between recently approved developments and those likely to move forward in the future. The amounts for Claremont Meadows Stage 2 per lot are still considerably lower than our other new urban areas but are still providing the baseline infrastructure for this new community. The rates may also further reduce as a result of the findings of the independent assessment of the District Open Space and Cultural Facilities plans, which is discussed later in the report. Also, major infrastructure works have already been undertaken, such as eastern drainage basin and roadworks to upgrade Caddens Road through the estate, which includes the relocation and upgrading of major drainage infrastructure. It is critical that the contributions regime as planned is able to continue to apply.

It will therefore be recommended that the levies applied to development under this plan be retained.

Review of Open Space Needs and District Facilities

The Minister has also directed Council to undertake an independent review of open space rates, cultural facilities, and the preparation of a business plan for those district facilities that are considered to be additional community infrastructure. Under the Environmental Planning and Assessment Act 1979, additional community infrastructure is community infrastructure that is not defined as key community infrastructure. Items that are considered key community infrastructure include local roads, local bus facilities, local parks, local sporting, recreational and social facilities, car parking, drainage and stormwater management, land for community infrastructure and district infrastructure associated with this list.

A Project Brief has been prepared seeking expressions of interest from consultants for the independent review and business plan. The work that is required to be undertaken by the consultant includes:

1. Review of the application of open space rates across Council's contributions plans that take into consideration:
 - a. Open space needs in general and the apportionment of costs for district open space.
 - b. Confirm Council's benchmarking exercise that compared Penrith's open space standards against other Western Sydney Councils.
 - c. Review the merit of the nexus between district open space facilities and the incoming population.
 - d. Review the facilities nominated in the District Open Space Contributions Plan and determine the merit of the facility, prioritise those that meet the legislative requirements and demonstrate the nexus. The costs of the District Facilities will also be included in this review.

2. Prepare a business plan, which is a requirement of the Environmental Planning and Assessment Act, to justify the continued contributions for those infrastructure items that are considered to be additional community infrastructure.
3. Preparation of a verification report of the business plan, which is also a requirement of the Act.

The outcomes of this review will be reported to Council later this year, and will form the basis of our final report to the Minister, which is required by December 2009.

Financial Services Comment

The Minister's Direction for Council to cease applying the current Section 94 Levy under the Library Facilities Plan will have a financial impact on Council's Library Service from 2010-11 onwards. Currently \$325,000 is allocated per annum from this plan towards the purchase of library books. The estimated closing balance of the Section 94 Library Facilities reserve in 2009-10 is \$200,000. If it was determined that Council was to maintain the current level of library book purchases, alternative funding of \$125,000 in 2010-11 (\$325,000 thereafter) will be required.

In addition to this, any further direction made by the Minister to apply a contribution levy that is lower than the revised rates proposed in this report for Glenmore Park Stage 2, Werrington Enterprise Living and Learning (WELL) Precinct and Claremont Meadows Stage 2 (Amendment No 1) would also impact on Council's financial situation, if there was no offsetting reduction in the service or projects being provided.

The Minister also requested Council to undertake a review of its District Open Space and Cultural Facilities contribution plans. It is possible that some projects may be removed from the District Open Space Plan. Should this occur, and if Council still wishes to provide all of the projects in the current plan, then an alternative funding strategy will need to be developed.

During the development of the 2009-10 Operational Plan the financial challenges facing Council over the next few years were well documented. The Long Term Financial Model indicated that there will be a number of years where a deficit budget is projected, and it will be at least 2012-13 before a surplus base budget is likely. These challenges have provided little scope within the current budget to accommodate alternative funding sources for those projects that are currently included in the Section 94 plans mentioned above. A review of all Council's programs, services and priorities has commenced.

Conclusion

The Contributions Plans that the Minister has required Council to review fund baseline facilities for our new residential communities.

The reduction sought by the Minister in Council's contributions per new lot/dwelling has challenged us to find savings in plans without compromising the fundamental facilities required for new urban areas. Our investigations have identified savings in accordance with the Minister's Direction, without compromising those baseline services and facilities. The Minister will be provided with a progress report of our review to date, as outlined in this report.

RECOMMENDATION

That:

1. The information contained in the report on Development Contributions Plan Review be received.
2. A progress report be submitted to the Minister in accordance with this report, advising of the outcomes of the review of the WELL Contributions Plan, Glenmore Park Stage 2 Contributions Plan and the Claremont Meadows Stage 2 Contributions Plan.
3. The Minister be requested to make new Contributions Plans for WELL and Glenmore Park Stage 2 including the revised amounts detailed in this report.
4. The Minister be requested to remake Claremont Meadows Stage 2 Contributions Plan in accordance with the plan adopted by Council on 13 December 2004.
5. In accordance with the Minister's Direction, Council cease to apply the levy under the Library Facilities Plan.

ATTACHMENTS/APPENDICES

There are no attachments for this report.

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A VIBRANT CITY

There were no reports under this Delivery Program when the Business Paper was compiled