

CONFIRMED MINUTES

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

ON MONDAY 9 NOVEMBER 2009 AT 7:40PM

NATIONAL ANTHEM

The meeting opened with the National Anthem.

STATEMENT OF RECOGNITION

His Worship the Mayor, Councillor Kevin Crameri 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 Kevin Crameri OAM, Councillors Jim Aitken OAM, Kaylene Allison, Robert Ardill, 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 - Ordinary Meeting - 12 October 2009

354 RESOLVED on the MOTION of Councillor Kath Presdee seconded Councillor Mark Davies that the minutes of the Ordinary Meeting of 12 October 2009 be confirmed.

DECLARATIONS OF INTEREST

His Worship the Mayor Councillor Kevin Crameri OAM declared:

a Pecuniary Interest in *Report and Recommendations of the Policy Review Committee meeting held on 21 October, 2009 – Item 1 - Chapters 1, 2 and 3* as he owns property in an area covered by the report. His Worship the Mayor Councillor Kevin Crameri OAM stated he would leave the meeting and take no part during discussion on the item.

a Non-Pecuniary Conflict of Interest – Significant in relation to recommendation number 10 of *Item 1 – Amendments to draft Penrith Local Environmental Plan 2008 in response to public exhibition* in regard to the Llandilo fruit and vegetable store, as the operators of the shop are an acquaintance of his and any development of the shop could increase the value of his land. His Worship the Mayor Councillor Kevin Crameri OAM

stated he would leave the meeting and take no part in the debate and discussion on the item.

Councillor Jim Aitken OAM declared a Pecuniary Interest in *Report and Recommendations of the Policy Review Committee meeting held on 21 October, 2009 – Item 1 – Amendments to draft Penrith Local Environmental Plan 2008 in response to public exhibition* and *Item 2 - Amendments to draft Amendment No. 1 to Penrith Local Environmental Plan 1991 Environmental Heritage Conservation in response to public exhibition* as he owns property in an area covered by the reports.

Councillor Jim Aitken OAM also declared a Non-Pecuniary Conflict of Interest - Less than Significant in *Item 17- Council Property – Cranebrook Village Shopping Centre* and *CW 6 - Commercial Matter - Council property Cranebrook Village Shopping Centre* as he is a Director of a company that leases a shop within the shopping centre.

Councillor Jackie Greenow declared a Pecuniary Interest in *Report and Recommendations of the Policy Review Committee meeting held on 21 October, 2009 – Item 1 – Amendments to draft Penrith Local Environmental Plan 2008 in response to public exhibition – Chapter 5* and *Item 2 - Amendments to draft Amendment No. 1 to Penrith Local Environmental Plan 1991 Environmental Heritage Conservation in response to public exhibition* as she owns property in an area covered by the reports.

Councillor Ross Fowler OAM declared a Pecuniary Interest in *Report and Recommendations of the Policy Review Committee meeting held on 21 October, 2009 – Item 1 – Amendments to draft Penrith Local Environmental Plan 2008 in response to public exhibition* and *Item 2 - Amendments to draft Amendment No. 1 to Penrith Local Environmental Plan 1991 Environmental Heritage Conservation in response to public exhibition Chapters 1, 2, 3, 4 & 5* as he is a property owner or a shareholder in a property; a director or secretary of companies that are property owners; or an auditor or accountant for clients who are property owners in the areas under consideration.

Councillor Ross Fowler OAM also declared a Pecuniary Interest in *Item 16 - Sponsorship Request for Australian Foundation for Disability Funathon* as he is a Director of the Australian Foundation for Disability.

Councillor Ben Goldfinch declared a Pecuniary Conflict of Interest –in *Report and Recommendations of the Policy Review Committee meeting held on 21 October, 2009 – Item 1 – Amendments to draft Penrith Local Environmental Plan 2008 in response to public exhibition* and *Item 2 - Amendments to draft Amendment No. 1 to Penrith Local Environmental Plan 1991 Environmental Heritage Conservation in response to public exhibition Chapters 1, 2, 3, 4 & 5* as he has relatives who own property in the areas covered by the report. Councillor Ben Goldfinch stated he would leave the meeting and take no part during discussion on these Chapters in the item.

Councillor Ben Goldfinch also declared a Pecuniary Interest in *Item 13 - Development Application DA09/0746 Proposed Alterations and Additions to Existing Bulky Goods Retail Centre at Lot 10 & 11 DP 1046110 (No. 13 - 23) Pattys Place, Jamisontown - Supacenta. Applicant: Pipven Pty Ltd; Owner: Pipven Pty Ltd* as the Harvey Norman Store (owned by Calardu Pty Ltd) has ordered insulation from a competitor of his business interests.

Councillor Marko Malkoc declared a Pecuniary Conflict of Interest – in *Report and Recommendations of the Policy Review Committee meeting held on 21 October, 2009 – Item 1 – Amendments to draft Penrith Local Environmental Plan 2008 in response to public exhibition* and *Item 2 - Amendments to draft Amendment No. 1 to Penrith Local Environmental Plan 1991 Environmental Heritage Conservation in response to public exhibition Chapters 1, 2 and 3* as his Uncle owns land in the Capitol Hill Estate.

Councillor Robert Ardill declared a Non-Pecuniary Conflict of Interest – Less than Significant in *Report and Recommendations of the Policy Review Committee meeting held on 21 October, 2009 – Confidential Business Item 3 - Legal Matter - Class 4 Legal Proceedings - Development Application 08/1288 Chemist Warehouse - Shop 230 Patty's Place, Jamisontown* as he works in the pharmaceutical industry and is required to make contact with his clients in this industry as a part of his employment.

Councillor Kath Presdee declared a Non-Pecuniary Conflict of Interest – Less than Significant in *Item 2 - Council Property - Lease of Land in Victoria Street Werrington to Transport Infrastructure Development Corporation for the Purpose of a Constructed Car Park* as she is a user of the carpark.

Councillor Greg Davies declared a Pecuniary Interest in *Report and Recommendations of the Policy Review Committee meeting held on 21 October, 2009 – Item 1 – Amendments to draft Penrith Local Environmental Plan 2008 in response to public exhibition* specifically Chapter 5 and *Item 2 - Amendments to draft Amendment No. 1 to Penrith Local Environmental Plan 1991 Environmental Heritage Conservation – specifically Submission No 401 in Chapter 5 (Heritage listing – 16 & 18 Pages Road, St Marys)*, as he had exchanged voting preferences with one of the property owners at the last Penrith City Council local government election.

Councillor Kaylene Allison declared a Pecuniary Interest in *Report and Recommendations of the Policy Review Committee meeting held on 21 October, 2009 – Item 1 – Amendments to draft Penrith Local Environmental Plan 2008 in response to public exhibition* specifically chapter 5 and *Item 2 - Amendments to draft Amendment No. 1 to Penrith Local Environmental Plan 1991 Environmental Heritage* as she had exchanged preferences with one of the property owners at the last local government election. Councillor Allison also declared a pecuniary interest in Chapters 1,2 and 3 of Item 1 as her Uncle owns land in Kemps Creek.

SUSPENSION OF STANDING ORDERS

355 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor Prue Guillaume that Standing Orders be suspended to allow members of the public to address the meeting, the time being 7:47 pm.

Procedural Motion – as Mr Sims' submission had not been received by relevant Council Officers.

356 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Karen McKeown that Mr Paul Sims be permitted to address Council on *Item 12 – Development Application No. 08/0958 - Section 96 Modification - Alteration to Finished Landform - Lot 1 DP 542395, Lot 740 DP 810111 (No. 1725) Elizabeth Drive, Badgerys Creek. Applicant:*

SITA Australia Pty Ltd; Owner: SITA Australia Pty Ltd DA08/0958I at the conclusion of Mr John Mullane's address.

Mr John Mullane

Item 12 – Development Application No. 08/0958 - Section 96 Modification - Alteration to Finished Landform - Lot 1 DP 542395, Lot 740 DP 810111 (No. 1725) Elizabeth Drive, Badgerys Creek. Applicant: SITA Australia Pty Ltd; Owner: SITA Australia Pty Ltd DA08/0958

Mr Mullane, the applicant's consultant, spoke in support of the proposed development, stating that resident concerns regarding screening would be adequately addressed by SITA's undertaking to construct a timber fence on top of the existing mound on the site, as well as planting of additional shrubs and trees on the southern side of the mound. Mr Mullane also stated that the landfill operation closest to concerned residents would be completed within 6-12 months.

Mr Paul Sims

Item 12 – Development Application No. 08/0958 - Section 96 Modification - Alteration to Finished Landform - Lot 1 DP 542395, Lot 740 DP 810111 (No. 1725) Elizabeth Drive, Badgerys Creek. Applicant: SITA Australia Pty Ltd; Owner: SITA Australia Pty Ltd DA08/0958

Mr Sims, an affected resident, spoke in opposition to the proposed alterations on the grounds of inadequacy of the proposed vegetated bund walls to sufficiently screen the direct views of the landfill activities of the development. Mr Sims also requested that an additional condition be placed on the development, requesting that sufficient screening be installed within 6-12 months. Mr Sims conveyed his appreciation for efforts of Council and staff in arranging mediation in this regard and acknowledged the participation and co-operation of the applicant in this regard.

Ms Felicity Rourke

Item 13 – Development Application DA09/0746 Proposed Alterations and Additions to Existing Bulky Goods Retail Centre at Lot 10 & 11 DP 1046110 (No. 13 - 23) Pattys Place, Jamisontown - Supacenta. Applicant: Pipven Pty Ltd; Owner: Pipven Pty Ltd DA09/0746

Ms Rourke, spokesperson for the applicant, spoke in support of the proposal, and stated that amendments have been made to the previous application to minimise the impact of the proposed development in terms of traffic, economic and visual impact. Ms Rourke also outlined the potential economic and social benefits of the proposed development associated with the expansion within this designated regional bulky goods precinct and stated that it would be in the public interest to approve the proposal.

Mr Dan Brindle

Item 13 – Development Application DA09/0746 Proposed Alterations and Additions to Existing Bulky Goods Retail Centre at Lot 10 & 11 DP 1046110 (No. 13 - 23) Pattys Place, Jamisontown - Supacentra. Applicant: Pipven Pty Ltd; Owner: Pipven Pty Ltd DA09/0746

Mr Brindle, representing an objector, spoke in opposition to the proposed development, stating that it would have an adverse impact on the adjoining Homemaker Centre, resulting in the Centre not being able to operate in accordance with its consent. Mr Brindle stated that the development would have adverse impacts on traffic and pedestrian safety along the southern boundary, as well as resulting in a loss of accessible car parking spaces.

357 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Karen McKeown that an extension of time be granted to Mr Brindle, the time being 8:07 pm.

Mr Brindle concluded by seeking Council's deferral of this matter to consider options for boundary conditions. Mr Brindle also proposed that a different design would be more appropriate and would work better without causing disruption to neighbouring properties.

Mr Tim Atkins

Item 17 – Council Property - Cranebrook Village Shopping Centre

Mr Atkins, representing the Benjamin Group, spoke in opposition of the recommendation, requesting that the Benjamin Group be appointed as the successful tenderer for this proposal. Mr Atkins outlined the advantages of the Benjamin Group's tender and stated that it would provide Council and the community with the best value for money, the highest financial outcome and ensure that the tender objectives are met. Mr Atkins concluded by seeking appointment as the preferred Tenderer for this project.

Ms Sharon Weston

Item 18 – Development Application 08/0395 Proposed Child Care Centre located at Lot 216 DP 849247 (No. 88-94) Grays Lane, Cranebrook. Applicant: Cultured Stone Australia; Owner: Kieu To and Thi Noh Pham DA08/0395

Ms Weston, an affected neighbour, spoke in opposition to the proposed development, in particular raising concerns in regard to the type of fencing proposed for the boundary with her property, citing maintenance reasons. Ms Weston also expressed concerns related to noise issues with the number of children proposed to be attending the Centre, as well as stormwater and drainage issues.

Mr Keith Hawkins

Item 18 – Development Application 08/0395 Proposed Child Care Centre located at Lot 216 DP 849247 (No. 88-94) Grays Lane, Cranebrook. Applicant: Cultured Stone Australia; Owner: Kieu To and Thi Noh Pham DA08/0395

Mr Hawkins, an affected person, spoke in opposition to the proposed development. Mr Hawkins raised concerns regarding issues with provision of reticulated sewer, stormwater, noise, and parking issues associated with dropping off and picking up children. Mr Hawkins also expressed his concerns over the large scale of the development, and stated that it was not in keeping with the rural environment of the area.

RESUMPTION OF STANDING ORDERS

358 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Marko Malkoc that Standing Orders be resumed, the time being 8:29 pm.

MAYORAL MINUTES

1 Ripples awarded for excellence

Councillor Tanya Davies left the meeting, the time being 8:34 pm.

359 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Greg Davies that the Mayoral Minute on Ripples awarded for excellence be received.

Councillor Tanya Davies returned to the meeting, the time being 8:36 pm.

3 Wall Hanging Exchange Commemorates Anniversary of Penrith City

360 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Jackie Greenow that the Mayoral Minute on Wall Hanging Exchange Commemorates Anniversary of Penrith City be received.

2 Past Mayors and General Managers come together for forum

361 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Jim Aitken OAM that the Mayoral Minute on Past Mayors and General Managers come together for forum be received, and that a letter of thanks be forwarded to John Bateman for his initiative for this Forum.

REPORTS OF COMMITTEES

1 Report and Recommendations of the Penrith Valley Community Safety Partnership Meeting held on 30 September 2009

'362 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Robert Ardill that the recommendations contained in the Report and Recommendations of the Penrith Valley Community Safety Partnership meeting held on 30 September, 2009 be adopted.

2 Report and Recommendations of the Access Committee Meeting held on 7 October 2009

'363 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor Kevin Crameri OAM that the recommendations contained in the Report and Recommendations of the Access Committee meeting held on 7 October, 2009 be adopted.

Councillor Greenow expressed her appreciation to the members of the Access Committee and the Council officers that supported the Committee during the last meeting, which resulted in the meeting being held efficiently.

3 Report and Recommendations of the Local Traffic Committee Meeting held on 12 October 2009

'364 RESOLVED on the MOTION of Councillor Jim Aitken OAM seconded Councillor Karen McKeown that the recommendations contained in the Report and Recommendations of the Local Traffic Committee meeting held on 12 October, 2009 be adopted.

Councillor Jim Aitken OAM requested that a letter of thanks be issued to all members of the Local Traffic Committee for their ongoing commitment to the Committee.

4 Report and Recommendations of the Policy Review Committee meeting held on 19 October, 2009

'365 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 19 October, 2009 be adopted.

Having previously declared a Pecuniary Interest in *Report and Recommendations of the Policy Review Committee meeting held on 21 October, 2009* Councillors Jim Aitken OAM, Ross Fowler OAM, Kaylene Allison, Ben Goldfinch, Marko Malkoc and Jackie Greenow left the meeting, the time being 8:47 pm.

His Worship the Mayor, Councillor Kevin Crameri OAM, called for nominations from Councillors to Chair the meeting for consideration of *Report and Recommendations of the*

Policy Review Committee meeting held on 21 October, 2009.

Having previously declared a Pecuniary Interest in *Report and Recommendations of the Policy Review Committee meeting held on 21 October, 2009* His Worship the Mayor, Councillor Kevin Cramer OAM vacated the Chair and left the meeting, the time being 8:48 pm.

366 RESOLVED on the MOTION of Councillor Greg Davies seconded Karen McKeown that Councillor John Thain chair the meeting at this point, the time being 8:48 pm.

5 Report and Recommendations of the Policy Review Committee meeting held on 21 October, 2009

Councillor John Thain then took the Chair for consideration of *Report and Recommendations of the Policy Review Committee meeting held on 21 October, 2009* with the exception of Item 1- Chapter 5, Item 2 and Item 3 of the Confidential Business.

367 RESOLVED on the MOTION of Councillors Kath Presdee seconded Councillor Mark Davies that, in regard to pg 37, submission 455:

Recommendation 2 be amended to read: “the land to the north of the flood planning level be deferred to LEP 2010 Stage 2”.

Recommendation 3 be amended to read: “*The flood planning level for the property as a whole be determined with reference to the cumulative flood study and modelling currently being undertaken by Hydraulic Engineers, Worley Parsons.*”

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

For

Councillor Prue Guillaume
Councillor Karen McKeown
Councillor Kath Presdee
Councillor Greg Davies
Councillor Robert Ardill
Councillor Mark Davies
Councillor Tanya Davies
Councillor Ben Goldfinch
Councillor John Thain

Against

368 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Greg Davies that on page 34, in respect of the Dunheved High Explosives Conservation Area, recommendations 1 and 2 be substituted with the following:

- “1. Council does not support the inclusion of the land within what was described as the ‘Dunheved High Explosives Heritage Conservation Area’ in Schedule 5 and the related maps of Draft Penrith Local Environmental Plan 2008.
2. The land referred to in Item 1 above be retained in draft Penrith Local Environmental Plan 2008 for the purpose of defining all other zoning provisions and planning controls.”

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

For

Councillor Prue Guillaume
Councillor Karen McKeown
Councillor Kath Presdee
Councillor Greg Davies
Councillor Robert Ardill
Councillor Mark Davies

Against

Councillor Tanya Davies
Councillor Ben Goldfinch
Councillor John Thain

369 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Greg Davies that on page 43, in respect of the Penrith Commuter Carpark, recommendation 2 be deleted and the following inserted:

“That Council endorse a fresh tender process (with an open tender) for the Penrith Commuter Carpark project, and that Council not continue with the previous selective tender process as resolved at the Ordinary Council Meeting held on 12 October 2009.”

370 RESOLVED on the MOTION of Councillor Kath Presdee seconded Councillor Robert Ardill that the recommendations contained in the *Report and Recommendations of the Policy Review Committee meeting held on 21 October, 2009* be adopted, with the exception of Chapter 5 of *Item 1 – Amendments to draft Penrith Local Environmental Plan 2008 in response to public exhibition, Item 2 - Amendments to draft Amendment No. 1 to Penrith Local Environmental Plan 1991 Environmental Heritage Conservation in response to public exhibition* and *Item 3 of Confidential Business – Legal Matter – Class 4 Legal Proceedings – Development Application 08/1288 Chemist Warehouse – Shop 230 Patty’s Place, Jamisontown.*

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

For
Councillor Prue Guillaume
Councillor Karen McKeown
Councillor Kath Presdee
Councillor Greg Davies
Councillor Robert Ardill
Councillor Mark Davies
Councillor Tanya Davies
Councillor Ben Goldfinch
Councillor John Thain

Against

His Worship the Mayor, Councillor Kevin Crameri OAM and Councillor Marko Malkoc returned to the meeting, the time being 8:56 pm.

Councillor Greg Davies left the meeting, the time being 8:56 pm.

Councillor John Thain then vacated the Chair and His Worship the Mayor, Councillor Kevin Crameri OAM returned to the Chair at 8:56 pm.

371 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Kath Presdee that *Item 1 (Chapter 5) - Amendments to draft Penrith Local Environmental Plan*

2008 in response to public exhibition, Item 2 - Amendments to draft Amendment No. 1 to Penrith Local Environmental Plan 1991 Environmental Heritage Conservation in response to public exhibition (Chapter 5) and Item 3 of Confidential Business – Legal Matter – Class 4 Legal Proceedings – Development Application 08/1288 Chemist Warehouse – Shop 230 Patty’s Place, Jamisontown.

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

For	Against
Councillor Prue Guillaume	
Councillor Karen McKeown	
Councillor Kath Presdee	
Councillor John Thain	
Councillor Robert Ardill	
Councillor Mark Davies	
Councillor Tanya Davies	
Councillor Marko Malkoc	

Councillors Jackie Greenow, Kaylene Allison, Jim Aitken OAM, Ben Goldfinch and Ross Fowler OAM returned to the meeting, the time being 8:58 pm.

Procedural Motion

372 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Jim Aitken OAM that the order of business be amended as follows:

- Item 15 be considered before Item 11
- Item 17 be considered after Item CW6
- Item 18 be considered after Item CW5
- Item 13 be referred to Committee of the Whole and then be considered after Confidential Business has been concluded.

DELIVERY PROGRAM REPORTS

A LEADING CITY

- 1 Council Property - Lease of Land in Harris Street, North St Marys to Transport Infrastructure Development Corporation for the Purpose of a Multi Deck Car Park**

'373 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Greg Davies

That:

1. The information contained in the report on Council Property - Lease of Land in Harris Street, North St Marys to Transport Infrastructure Development Corporation for the Purpose of a Multi Deck Car Park be received.
2. Council agree to the lease of the existing car park located at 32-52 Harris Street North St Marys described as Lot A DP152452, Lot B DP152452, Lot C DP152452, Lot 1 DP1127305, Lot 2 DP1127305, Lot 195 DP 31912 and adjacent roadway to Transport Infrastructure Development Corporation at a rental figure of \$1.00 per annum plus GST.
3. Transport Infrastructure Development Corporation agree to a Sublease with Council over part Lot A DP152452 for a leased premises at a rental figure of \$1.00 per annum plus GST.
4. The Common Seal of the Council of the City of Penrith be placed on all necessary documentation.

2 Council Property - Lease of Land in Victoria Street Werrington to Transport Infrastructure Development Corporation for the Purpose of a Constructed Car Park

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

That:

1. The information contained in the report on Council Property - Lease of Land in Victoria Street Werrington to Transport Infrastructure Development Corporation for the Purpose of a Constructed Car Park be received.
2. Council agree to the lease of the existing car park located at 88-90 Victoria Street described as Part Lot 2 DP730041, Lot 1 DP913274 and Lot 1 DP114508 to Transport Infrastructure Development Corporation at a rental figure of \$1.00 per annum plus GST.
3. The Common Seal of The Council of The City of Penrith be placed on all necessary documentation.

3 Council Meeting Calendar for 2010

Councillor John Thain left the meeting, the time being 9:02 pm.

'375 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor Tanya Davies

That:

1. The information contained in the report on Council Meeting Calendar for 2010 be received.
2. The draft Meeting Calendar for 2010 be adopted, with the following amendment – the Ordinary Meeting scheduled for 17 May 2010 now be held on 24 May 2010.

4 2009 Local Government Association Annual Conference

'376 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Mark Davies

That:

1. The information contained in the report on 2009 Local Government Association Annual Conference be received.
2. Council write to the President of the Local Government and Shires Associations expressing concerns of media reports that Motion 150 from the Conference was in some way connected to the hypothecation of landfill levies.

5 Regional and Local Community Infrastructure Program Round 2 2009-10: Council's Allocation of \$721,000

Councillor John Thain returned to the meeting, the time being 9:06 pm.

'377 RESOLVED on the MOTION of Councillor Tanya Davies seconded Councillor Greg Davies

That:

1. The information contained in the report on Regional and Local Community Infrastructure Program Round 2 2009-10: Council's Allocation of \$721,000 be received.
2. Council endorse the preparation and submission of six projects for the RLCIP: Berkshire Park Hall Precinct \$219,000; New and Replacement Park Play Equipment Program \$145,000; Great River Walk Decks \$75,000; Werrington Downs Fitness Trail Construction \$60,000; Children's Services Playground Upgrades \$140,000.
3. Council endorse the preparation and submission of two projects as additional nominations to the RLCIP: New and Replacement Play Equipment \$100,000; Great River Walk Deck and Steps \$135,000.
4. A memo be sent to all Councillors outlining what seating has been supplied in parks where there is play equipment.

6 Summary of Investments & Banking from 1 September 2009 to 30

September 2009

'378 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Greg Davies

That:

1. The information contained in the report on Summary of Investments & Banking from 1 September 2009 to 30 September 2009 be received.
2. The Certificate of the Responsible Accounting Officer and Summaries of Investments and Performance for the period 1 September 2009 to 30 September 2009 be noted and accepted.
3. The graphical investment analysis as at 30 September 2009 be noted.
4. The Agency Collection Methods as at 30 September 2009 be noted

A CITY OF OPPORTUNITIES

7 Community Builders Funding Program (formerly known as Western Sydney Area Assistance Scheme)

'379 RESOLVED on the MOTION of Councillor Tanya Davies seconded Councillor Jackie Greenow

That:

1. The information contained in the report on Community Builders Funding Program (formerly known as Western Sydney Area Assistance Scheme) be received.
2. Councillors Tanya Davies and Prue Guillaume be acknowledged and thanked for their contribution to the 2008/09 WSAAS Local Ranking Committee.
3. Council write to the relevant Minister concerning the Community Builders Funding Program expressing concern that the State Labor government excludes local representatives and Councillors from the process, and requesting the reinstatement of the previous structure which includes the input of local representatives and councillors.
4. Council write to Local Members of Parliament seeking their support and directly lobby the responsible Minister in this matter.

8 Glenmore Park Child and Family Centre - Operational Matters

'380 RESOLVED on the MOTION of Councillor Jim Aitken OAM seconded Councillor Karen McKeown

That:

1. The information contained in the report on Glenmore Park Child and Family Centre - Operational Matters be received.
2. The proposed fees and charges in the attachments be endorsed for public exhibition.
3. A further report be presented to the Council after the public exhibition period presenting any public submissions received.

A LIVEABLE CITY

15 Penrith Park and Howell Oval Redevelopment

'381 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Jim Aitken OAM that the information contained in the report on Penrith Park and Howell Oval Redevelopment be received.

A GREEN CITY

- 11 Development Application DA09/0747 for Upgrade Works to Penrith Stadium in Penrith Park at Lot 2 DP 773983 (No. 143) Station Street, Penrith. Applicant: Penrith District Rugby League Football Club Ltd; Owner: Department of Land and Water Conservation**

DA09/0747

382 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Jim Aitken OAM

That:

1. The information contained in the report on Development Application DA09/0747 for Upgrade Works to Penrith Stadium in Penrith Park at Lot 2 DP 773983 (No. 143) Station Street, Penrith be received.
2. Development Application DA09/0747 for Upgrade Works to Penrith Stadium in Penrith Park at Lot 2 DP 773983 (No. 143) Station Street, Penrith be received be approved subject to the following conditions:

Standard Conditions

- | | | |
|-----|------|---|
| 2.1 | A001 | Approved plans |
| | A008 | Works to BCA requirements |
| | A012 | Food shop |
| | A019 | Occupation Certificate |
| | A026 | Advertising signs |
| | 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 |
| | D001 | Implement approved sediment and erosion control measures |
| | D005 | No filling without prior approval |
| | D006 | Validation of fill material |
| | D007 | Filling of land |
| | D009 | Covering of waste storage area |
| | D010 | Appropriate disposal of excavated or other waste |
| | D014 | Plant and equipment noise |
| | E01A | BCA compliance (Class 2-9) |
| | E002 | BCA issues to be addressed |
| | E006 | Disabled access and facilities |
| | E009 | Annual fire safety |

F001	Food shop construction and plans
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
H006	Implement waste management plan
H041	Hours of construction work
L001	Approved landscaping plans
L002	Landscaping construction
L003	Landscaping report requirements
L005	Planting of plant material
L006	Australian Standard landscaping requirements
L008	Tree preservation order
L010	Tree protection measures
L012	Retain and maintain existing landscaping
P001	Costs
P002	Fees associated with Council land
Q001	Notice of commencement and appointment of PCA
Q006	Occupation Certificate

Special Conditions

- 2.2 The development shall comply with the following community safety and CPTED (Crime Prevention Through Environmental Design) matters:
- (a) All buildings within the complex should be fitted with a back-to-base alarm monitoring system.
 - (b) A closed-circuit television (CCTV) system should be installed with coverage provided to key areas within the complex, including entry/exit points and ticket booths.
 - (c) All doors and windows within the complex should be fitted with appropriate security locks and fittings to restrict access to unauthorised persons.
 - (d) Toilet facilities should be securely locked when not in use.
 - (e) Entrances to toilet blocks should be highly visible with minimal screening to avoid potential entrapment and/or concealment opportunities.
 - (f) Toilet cubicle doors should open outward to allow access in an emergency. Doors should also have spring-opening hinges to allow doors to remain open when not in use.

- (g) The rear of toilet doors should have hooks located half-way down the door to ensure that handbags cannot be accessed over the top of the door.
 - (h) There should be a gap between toilet doors and the floor and between toilet doors and the ceiling.
 - (i) The creation of areas where items such as drug paraphernalia can be hidden should be avoided (e.g. suspended ceilings).
 - (j) Toilet fittings should be flush with walls to avoid tampering or stashing of items.
 - (k) All areas within the complex should be well lit in accordance with relevant Australian Standards.
 - (l) All lighting should be vandal resistant where practical.
 - (m) Lighting should be consistent to reduce contrast between shadows and illuminated areas.
 - (n) Lighting should be contained within the property boundary and no light should be projected upwards.
 - (o) In order to improve surveillance, provide clear lines of sight and avoid concealment areas in public areas, dense vegetation and shrubs with top to bottom foliage should be avoided.
 - (p) Graffiti resistant paints/surfaces should be used on the external surfaces of the development to minimise opportunities for graffiti and vandalism.
 - (q) Sturdy, vandal resistant materials should be used for fixtures such as lighting, seating and bins to reduce the risk for graffiti.
 - (r) Any graffiti or malicious damage to the building should be reported to the Police and removed rapidly to discourage repeat incidents.
- 2.3 In order to ensure that the “green facade” to the southern elevation of the southern football pavilion achieves the necessary growth and vigour to reduce the visual impact of the building and to aid as a barrier to graffiti and vandalism, details of the proposed climber vine species and a maintenance plan shall be submitted and approved prior to the issue of the Construction Certificate.
- 2.4 Each of the recommendations relating to the development contained in the Access Review dated 30 July 2009 prepared by Morris-Goding Accessibility Consulting shall be incorporated into the Construction Certificate plans for the development. Certification from a suitably qualified accessibility consultant stipulating that the recommendations have been satisfied shall be submitted prior to the issue of the Occupation Certificate.
- 2.5 Signage visible to patrons arriving at the southern entry to Penrith Stadium shall be erected advising that “accessible seating is not available from this entrance”.

- 2.6 Each of the recommendations contained in the Arboricultural Assessment Report dated 31 July 2009 prepared by Lang Tree Management shall be implemented at the relevant stages of the development works. Leaf mulch shall be applied at 75mm thickness in tree protection areas.
- 2.7 Approval is granted for the removal of Trees 1, 2 and 3 as identified in the Arboricultural Assessment Report dated 31 July 2009 prepared by Lang Tree Management. Super advanced mature replacement trees shall be planted in this location prior to the issue of the Occupation Certificate. Trees 4, 5 and 6 shall be retained and protected.
- 2.8 No construction activities, including the storage of materials or parking of vehicles, are to be carried out under the canopy of any existing trees to be retained on the site.
- 2.9 All civil works shall be designed and constructed in accordance with Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works and applicable Australian Standards.
- 2.10 Any Construction Certificate issued by the Principal Certifying Authority or Certifying Authority shall incorporate plans and details for erosion and sediment control in accordance with the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.
- 2.11 A Construction Certificate shall be issued by a Certifying Authority to include the following civil works:
- (a) Stormwater drainage.
- Civil drawings shall be prepared strictly in accordance with Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works and applicable Australian Standards.
- 2.12 Stormwater drainage shall be discharged to:
- (a) The existing site drainage system.
- The proposed stormwater drainage system shall be designed to ensure no adverse impact on adjoining properties by the diversion or concentration of stormwater flows. The proposed method of stormwater discharge shall be detailed in the Construction Certificate issued by the Certifying Authority.
- 2.13 Prior to the commencement of works on site, including approved clearing of site vegetation, erosion and sediment control measures shall be installed. The erosion and sediment control measures are to be installed in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.
- 2.14 Erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

- 2.15 Prior to the connection of private drainage to Council's drainage system, an inspection is to be carried out by Penrith City Council's Development Engineering Unit. A fee will be charged in accordance with Council's adopted fees and charges, and is to be paid prior to the inspection.
 - 2.16 All filling shall be undertaken in accordance with Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works and Australian Standard 3798.
 - 2.17 Prior to the issue of the Occupation Certificate, the Principal Certifying Authority shall ensure that all civil works have been satisfactorily completed in accordance with the Construction Certificate, Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works and relevant conditions of the development consent.
 - 2.18 Prior to the issue of the Occupation Certificate, a checklist and supporting documentation shall be submitted to the Principal Certifying Authority demonstrating that each condition of the development consent has been satisfactorily addressed.

 - 2.19 The Occupation Certificate shall not be issued until all conditions of consent, except those relating to ongoing operational matters, have been completed.
 - 2.20 The Food Handling Guidelines for Temporary Events must be complied with for all temporary food stalls.
 - 2.21 An inspection from Council's Environmental Health Department will be required prior to the operation of the development. The proprietor shall contact the Environmental Health Department at the appropriate time to organise an appointment for the inspection.
 - 2.22 Details of the proposed perimeter fence re-alignment shall be submitted and approved prior to the issue of the Construction Certificate.
3. The individual 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 Kaylene Allison
Councillor Robert Ardill
Councillor Kevin Crameri OAM
Councillor Greg Davies
Councillor Mark Davies
Councillor Tanya Davies
Councillor Ross Fowler OAM

Against

Councillor Ben Goldfinch
Councillor Jackie Greenow
Councillor Prue Guillaume
Councillor Marko Malkoc
Councillor Karen McKeown
Councillor Kath Presdee
Councillor John Thain

9 Landcare Mobilemuster grant

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

That:

1. The information contained in the report on Landcare Mobilemuster grant be received.
2. Grant funding of \$20,000 offered to Penrith City Council by Landcare Mobilemuster grant be accepted.
3. Council write to Landcare Mobilemuster accepting the grant and its conditions and thanking them for the opportunity to access important environmental funding.

10 Waste and Sustainability Improvement Payments

384 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Tanya Davies

That:

1. The information contained in the report on Waste and Sustainability Improvement Payments be received.
2. The projects developed in this report be submitted to the Department of Environment, Climate Change and Water as identified projects that be funded from the Waste and Sustainability Improvement Payments.
3. Unexpended funding of \$277,951 be transferred to a reserve for use in future years projects, together with additional Waste and Sustainability Improvement Payments received.
4. The unexpended funding, if eligible, be placed in the Sustainability Revolving Fund.
5. Council receive an update of the status of the Revolving Fund including money added and expended to the Fund.

**12 Development Application No. 08/0958 - Section 96 Modification -
Alteration to Finished Landform - Lot 1 DP 542395, Lot 740 DP 810111
(No. 1725) Elizabeth Drive, Badgerys Creek. Applicant: SITA Australia
Pty Ltd; Owner: SITA Australia Pty Ltd**

DA08/0958

Councillor Mark Davies left the meeting, the time being 9:25 pm.

385 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Jim Aitken OAM

That:

1. The information contained in the report on Development Application No. 08/0958 - Section 96 Modification - Alteration to Finished Landform - Lot 1 DP 542395, Lot 740 DP 810111 (No. 1725) Elizabeth Drive, Badgerys Creek be received
2. Development Application No. 08/0958 - Section 96 Modification - Alteration to Finished Landform - Lot 1 DP 542395, Lot 740 DP 810111 (No. 1725) Elizabeth Drive, Badgerys Creek be approved subject to the following:

2.1 Amended Condition No 6 to read:

Development is to take place as specified within the Environmental Impact Statement prepared on behalf of the applicant by R W Corkery and Co Pty Ltd and Planners North Pty Ltd and submitted to Council as part of the development application on Council's file D25050/13602 DA 2 except where amended or altered by these conditions or the Landfill Environmental Management Plan dated 1 January 1998 defined in EPA licence No 004585 dated 11 October 2000 as approved by Council in the modification of this consent or Drawing No. 21-17412-C005, dated 08.05.08 prepared by GHD and entitled "Proposed Landfill Contours Increase of Depth of Fill over DA Contours" or as directed otherwise by Council from time to time

2.2 Insert the following Special conditions:

- 2.2.1 The proposal is to operate in accordance with the license issued by the Department of Environment, Climate Change and Water at all times

Construction of a timber fence on top of the existing earth bund along the southern boundary in accordance with the plan stamped and approved with the section 96 application. The fence height is to be either 1.8m or 2.0m following discussions with the adjoining property owner to the south. The fence is to be constructed within 2 months from the date of the approved granted for the section 96 application.

Suitable landscaping is to be planted along the southern side of the bund wall along the southern property boundary in the vicinity of the timber fence required by the above condition. The species are to be similar to the other planting undertaken on the northern side of the bund wall. The landscaping is to be maintained at all times and any plantings that dies are to be replaced.

- 2.2.2 The landfill operation adjacent to Lot 1 DP 240718, 1783 Elizabeth Drive, Badgerys Creek should be completed with 12

months from the date of this modification. The area will then be capped in accordance with the modification consent and the Landfill Environmental Management Plan.

3. The applicant and those making a submission be informed of Council's decision.

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 Robert Ardill
Councillor Kevin Crameri OAM
Councillor Greg 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

14 Proposed Fees and Charges - St Marys Memorial Hall

'386 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Marko Malkoc

That:

1. The information contained in the report on Proposed Fees and Charges - St Marys Memorial Hall be received.
2. The proposed fees and charges in the attachments be endorsed for public exhibition.
3. A further report be presented to Council after the public exhibition period presenting any public submissions received.

A VIBRANT CITY

Having previously declared a Pecuniary Interest in Item 16 *Sponsorship Request for Australian Foundation for Disability Funathon* Councillor Ross Fowler OAM left the

meeting, the time being 9:28 pm.

16 Sponsorship Request for Australian Foundation for Disability Funathon

'387 RESOLVED on the MOTION of Councillor Jim Aitken OAM seconded Councillor Robert Ardill

That:

1. The information contained in the report on Sponsorship Request for Australian Foundation for Disability Funathon be received;
2. Council approve providing sponsorship of \$5,000 from the City Marketing and Sponsorship budget to the Australian Foundation for Disability for the Funathon Event on 13 November 2009.

Councillor Ross Fowler OAM returned to the meeting, the time being 9:30 pm.

QUESTIONS WITHOUT NOTICE

QWN 1 Charity Trivia Night

Councillor Marko Malkoc requested that an amount of \$400 (to be contributed equally from South, North and East Ward voted works) be allocated to the hire of the Harold Corr Hall, for the Charity Trivia Night being held on 20 November 2009 for fundraising to train an Autism Assistance Dog.

'388 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor Greg Davies that the matter be brought forward and dealt with as a matter of urgency.

His Worship the Mayor, Councillor Kevin Crameri OAM, ruled that the matter was urgent and should be dealt with at the meeting.

389 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor Greg Davies that an amount of \$400 (to be contributed equally from South, North and East Ward voted works) be allocated to the hire of the Harold Corr Hall, for the Charity Trivia Night being held on 20 November 2009 for fundraising to train an Autism Assistance Dog.

QWN 2 Autism Assistance Dogs

'Councillor Jim Aitken OAM requested a report to Council investigating whether Autism Assistance Dogs have the same rights as Guide Dogs for the Blind.

QWN 3 Provision of Park Benches and Shade Trees at Playgrounds

Councillor Tanya Davies requested a report to Council detailing the costs and plans by Council to support the provision of park benches and shade trees at all Council owned playgrounds throughout the City, both existing and new.

Councillor Mark Davies returned to the meeting, the time being 9:32 pm.

QWN 4 Active Councillor Request List

Councillor Tanya Davies requested a memo reply detailing the criteria for Councillor Requests to be included on the Active Councillor Requests report. Councillor Davies indicated that the report did not contain a number of issues that she considered had not been finalised.

QWN 5 Donation for CWA Wall Hanging

Councillor Ross Fowler OAM requested that an amount of \$450 (to be contributed equally from South, North and East Ward voted works) be allocated to the CWA to cover the cost of the wall hanging donated to Council.

390 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor John Thain that the matter be brought forward and dealt with as a matter of urgency.

His Worship the Mayor, Councillor Kevin Crameri OAM, ruled that the matter was urgent and should be dealt with at the meeting.

391 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor John Thain that an amount of \$450 (to be contributed equally from South, North and East Ward voted works) be allocated to the CWA to cover the cost of the wall hanging donated to Council.

QWN 6 Sensor to detect Graffiti

Councillor Jim Aitken OAM requested a memo reply addressing the possibility of placing graffiti sensors in graffiti trouble spots around the City, so that this activity may be detected by Police or security.

QWN 7 Parking - Coles, St Marys

Councillor Jackie Greenow requested a memo reply concerning parking issues outside Coles in Phillip Street, St Marys and noting that the Post Box has been removed, but the No Stopping/Parking sign has remained.

QWN 8 Victoria Park, St Marys

Councillor Jackie Greenow requested a memo reply on the possibility of providing seating in Victoria Park, St Marys along Pages Road.

QWN 9 Commendation of Staff

Councillor Greg Davies commended City Works Manager, Hans Meijer, and his staff for their prompt attention to an elderly resident's request for the trimming of a number of trees in St Clair.

QWN 10 Thanking Council Staff

Councillor Karen McKeown thanked the Council staff from the Public Domain Amenity & Safety Department for their efforts in cleaning up the roadside along Mulgoa Road up to Mulgoa Park where rubbish had been dumped along the way.

QWN 11 McDonalds McHappy Day - Saturday 14 November 2009

Councillor Greg Davies requested that an amount of \$500 (to be contributed equally from South, North and East Ward voted works) be allocated to McDonalds to cover the hire of a stage for presentations on McHappy Day, to be held on Saturday 14 November 2009.

392 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Kevin Crameri OAM that the matter be brought forward and dealt with as a matter of urgency.

His Worship the Mayor, Councillor Kevin Crameri OAM, ruled that the matter was urgent and should be dealt with at the meeting.

393 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Kevin Crameri OAM that an amount of \$500 (to be contributed equally from South, North and East Ward voted works) be allocated to McDonalds to cover the hire of a stage for presentations on McHappy Day, to be held on Saturday 14 November 2009.

QWN 12 Parking Fines

Councillor Mark Davies requested a memo reply on the status of parking fines in carparks due to the resurfacing of the Belmore Street Car Park.

QWN 13 E-Waste Recycling Facilities

Councillor Karen McKeown requested a report to Council advising if there are any E-Waste recycling facilities in the Penrith Local Government Area and detailing how Council can ban E-Waste to landfill throughout the City, as well as how E-Waste can be recycled.

Councillor Greg Davies left the meeting, the time being 9:46 pm.

QWN 14 Regional Infrastructure Program

Councillor Prue Guillaume congratulated Council officers on the projects submitted for funding consideration by the Federal Government, under the Regional Infrastructure Program, especially the accessibility upgrade at Castlereagh Street, Penrith, and the provision of playground equipment at Grassmere Street, South Penrith.

QWN 15 Electricity Charges

Councillor Kevin Crameri OAM requested a report to Council on the current cost of electricity, outlining the reasons for the recent increase in costs.

COMMITTEE OF THE WHOLE

394 RESOLVED on the MOTION of Councillor Jackie Greenow seconded Councillor Tanya Davies that the meeting adjourn to the Committee of the Whole to deal with the following matters, the time being 9:51 pm.

Councillor Greg Davies returned to the meeting, the time being 9:52 pm.

1 Presence of the Public

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

A Leading City

2 Legal Matter - Erskine Business Park - Paclib

This item has been referred to Committee of the Whole as the report refers to advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege and discussion of the matter in open meeting would be, on balance, contrary to the public interest.

3 Commercial Matter - Council Property - Leasing of Proposed Coffee Shop within 225-227 Queen Street, St Marys

This item has been referred to Committee of the Whole as the report refers to commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret and discussion of the matter in open meeting would be, on balance, contrary to the public interest.

4 Commercial Matter - Council Property - New Licence Agreement over part of The Queen Street Centre at 209 Queen Street, St Marys

This item has been referred to Committee of the Whole as the report refers to commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret and discussion of the matter in open meeting would be, on balance, contrary to the public interest.

A Green City

- 5 Legal Matter - Development Application 08/0395 Proposed Child Care Centre located at Lot 216 DP 849247 (No. 88-94) Grays Lane, Cranebrook. Applicant: Cultured Stone Australia; Owner: Kieu To and Thi Noh Pham**

DA08/0395

This item has been referred to Committee of the Whole as the report refers to advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege and discussion of the matter in open meeting would be, on balance, contrary to the public interest.

A Leading City

- 6 Commercial Matter - Council property Cranebrook Village Shopping Centre**

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 10:41 pm and the General Manager reported that the Committee of the Whole met at 9:52 pm on 9 November 2009, the following being present

His Worship the Mayor Councillor Kevin Crameri OAM, Councillors Jim Aitken OAM, Kaylene Allison, Robert Ardill, 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 Legal Matter - Erskine Business Park - Paclib**

RECOMMENDED on the MOTION of Councillor Greg Davies seconded Councillor Marko Malkoc

CW2 That:

1. The information contained in the report on Legal Matter - Erskine Business Park - Paclib be received.
2. Payments be made in accordance with the recommendations in the conclusion of the report.

- 3 Commercial Matter - Council Property - Leasing of Proposed Coffee**

Shop within 225-227 Queen Street, St Marys

RECOMMENDED on the MOTION of Councillor Karen McKeown seconded Councillor Tanya Davies

CW3 That:

1. The information contained in the report on Commercial Matter - Council Property - Leasing of Proposed Coffee Shop within 225-227 Queen Street, St Marys be received.
2. Council grant a 5 year lease with a 5 year option to the proposed tenant in accordance with the terms and conditions as outlined in the report.
3. The Common Seal of the Council of the City of Penrith be placed on all necessary documentation.

4 Commercial Matter - Council Property - New Licence Agreement over part of The Queen Street Centre at 209 Queen Street, St Marys

RECOMMENDED on the MOTION of Councillor Jim Aitken OAM seconded Councillor Marko Malkoc

That the information contained in the report on Commercial Matter - Council Property - New Licence Agreement over part of The Queen Street Centre at 209 Queen Street, St Marys be received.

Procedural Motion - Recommittal of Item CW4 - Commercial Matter - Council Property - New Licence Agreement over part of The Queen Street Centre at 209 Queen Street, St Marys

RECOMMENDED on the MOTION of Councillor Greg Davies seconded Councillor Jackie Greenow

CW4 That *Item CW4 - Commercial Matter - Council Property - New Licence Agreement over part of The Queen Street Centre at 209 Queen Street, St Marys* be recommitted for consideration of Committee of the Whole.

4 Commercial Matter - Council Property - New Licence Agreement over part of The Queen Street Centre at 209 Queen Street, St Marys

RECOMMENDED on the MOTION of Councillor Greg Davies seconded Councillor Jackie Greenow

CW5 That:

1. The information contained in the report on Commercial Matter – Council Property - New Licence Agreement over part of The Queen Street Centre at 209 Queen Street, St Marys be received.
2. A further report be presented to Council on the future position for the reported licence agreement, including details of the business plans, audience

coverage etc.

- 5 Legal Matter - Development Application 08/0395 Proposed Child Care Centre located at Lot 216 DP 849247 (No. 88-94) Grays Lane, Cranebrook. Applicant: Cultured Stone Australia; Owner: Kieu To and Thi Noh Pham** **DA08/0395**

RECOMMENDED on the MOTION of Councillor Greg Davies seconded Councillor Jim Aitken OAM

CW6 That the information contained in the report on Legal Matter - Development Application 08/0395 Proposed Child Care Centre located at Lot 216 DP 849247 (No. 88-94) Grays Lane, Cranebrook be received.

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 Kevin Crameri OAM
Councillor Kaylene Allison	
Councillor Robert Ardill	
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 Commercial Matter - Council property Cranebrook Village Shopping Centre**

RECOMMENDED on the MOTION of Councillor John Thain seconded Councillor Tanya Davies

CW7 That the information contained in the report on Commercial Matter - Council property Cranebrook Village Shopping Centre be received.

Councillor Ben Goldfinch left the meeting, the time being 10:35 pm.

- 13 Development Application DA09/0746 Proposed Alterations and Additions to Existing Bulky Goods Retail Centre at Lot 10 & 11 DP 1046110 (No. 13 - 23) Pattys Place, Jamisontown - Supacenta. Applicant: Pipven Pty Ltd; Owner: Pipven Pty Ltd** **DA09/0746**

RECOMMENDED on the MOTION of Councillor Greg Davies seconded Councillor Marko Malkoc

CW8 That the information contained in the report on Development Application DA09/0746 Proposed Alterations and Additions to Existing Bulky Goods Retail Centre at Lot 10 & 11 DP 1046110 (No. 13 - 23) Pattys Place, Jamisontown - Supacenta be received.

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 Robert Ardill
Councillor Kevin Crameri OAM
Councillor Greg Davies
Councillor Mark Davies
Councillor Tanya Davies
Councillor Ross Fowler OAM
Councillor Jackie Greenow
Councillor Prue Guillaume
Councillor Marko Malkoc
Councillor Karen McKeown
Councillor Kath Presdee
Councillor John Thain

Against

ADOPTION OF COMMITTEE OF THE WHOLE

395 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Greg Davies that the recommendations contained in the Committee of the Whole and shown as CW1, CW2, CW3, CW4, , CW5, CW 6, CW7 and CW8 be adopted.

Councillor Ben Goldfinch returned to the meeting, the time being 10:42 pm.

A GREEN CITY

13 Development Application DA09/0746 Proposed Alterations and Additions to Existing Bulky Goods Retail Centre at Lot 10 & 11 DP 1046110 (No. 13 - 23) Pattys Place, Jamisontown - Supacenta.
Applicant: Pipven Pty Ltd; Owner: Pipven Pty Ltd

DA09/0746

Councillor Ben Goldfinch left the meeting, the time being 10:46 pm.

Councillors Karen McKeown and Prue Guillaume left the meeting, the time being 10:47 pm.

Councillor Karen McKeown returned to the meeting, the time being 10:49 pm.

Councillor Prue Guillaume returned to the meeting, the time being 10:51 pm.

396 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Jim Aitken OAM

That:

1. The subject Development Application be approved, subject to the imposition of the following conditions:

Standard Conditions

A001 - Approved plans that are architecturally drawn:

Architectural Plans :

- Proposed DA Plan Ground numbered DA 2-A-052 Rev D, drawn by Quattro Design and dated 21/09/2009,
- Proposed Landscape Detail numbered DA 2-A-020- Rev A, drawn by Quattro Design and dated 5/08/2009,
- Proposed DA Plan Roof numbered DA 2-A-053- Rev A, drawn by Quattro Design and dated 21/07/2009,
- Proposed Building Elevations numbered DA 2-A-200- Rev A, drawn by Quattro Design and dated 5/08/2009,
- Proposed Building Sections numbered DA 2-A-250- Rev, drawn by Quattro Design and dated 5/08/2009,
- Works in Progress Site Plan Ground, numbered DA 2-A-004 Rev A, drawn by Quattro Design and dated 6/08/2009,
- Pedestrian & Vehicular Circulation Plan, numbered DA 2-A-025 Rev B, drawn by Quattro Design and dated 13/08/2009,
- Carpark Plan Basement and Ground, numbered DA 2-A-750 Rev B, drawn by Quattro Design and dated 17/09/2009
- Basement Car Park Recommended Static Sign Locations, unnumbered, drawn by Parking Consultants International and dated May 16, 2009.

Civil Engineering Plans

- Overall Plan numbered 08497 _DA2- C100 Rev 01, drawn by Quattro Design and dated 3/08/2009
- Detail Plan 1 numbered 08497_DA2_C102 Rev 02, drawn by Quattro Design and dated 16/09/2009
- Detail Plan 2 numbered 08497_DA2_C103 Rev 01, drawn by Quattro Design and dated 3/08/2009
- Catchment Plan numbered 08497_DA2_C104 Rev 01, drawn by Quattro Design and dated 3/08/2009
- Sediment Erosion Control Details numbered 08497_DA2_SE01-SE02 Rev 01, drawn by Quattro Design and dated 3/08/2009
- Treatment to intersection of Mulgoa & Blaikie Roads numbered 08325_SK_C003 Rev 01, drawn by Henry & Hymas and dated 18/06/2008
- Intersection of Mulgoa Rd & Blaikie Rd External Works plan numbered 08497_CC_EX01 Rev D drawn by Quattro design and dated 23/06/2009
- Elsholz Concrete Kerb Median and Nearside Installation Sections/ Profiles

numbered MD.R132.D03.A.1 drawn by the Roads and Traffic Authority NSW and dated January 1997.

Electrical Plans

- Electrical Drawings numbered 2014- E01-E08 Rev A, drawn by Quattro Design and dated 21/07/2009.

Landscape Plans

- Landscape Plans numbered DA MP L001-L003 Issue B, drawn by Site Image Landscape Architects and dated 3/08/2009.
- Landscape Plan numbered DA-MP-L001 Issue C, drawn by Site Image Landscape Architects and dated 26/07/2007.
- Landscape Detail & Specification Notes numbered DA-MP-L004 Issue A, drawn by Site Image Landscape Architects and dated 26/07/2007.
- Detailed Landscape Plans numbered DA- MP-002 Issue A, and DA- MP-003 Issue B drawn by Site Image Landscape Architects and dated 26/07/2007.

A013 - Surrender of Consent – DA07/1418 – Prior to issue of a CC

A017 - DA for use

A019 - Occupation Certificate

A026 - Advertising sign

A032 - Goods in buildings

A038 - Lighting locations

A039 - Graffiti

A046 – Construction Certificate

B002 - AS for demolition and disposal to approved landfill site

B004 - Dust

B005 - Mud/Soil

D001 - Implement approved sediment & erosion control measures

D006A - No filling without prior approval

D009 - Covering of waste storage area

D010 - Appropriate disposal of excavated or other waste

D014 - Plant and equipment noise

D023 - Bunding

E01A - BCA compliance for Class 2-9

E003 - Structural alterations

E006 - Disabled access and facilities

E009 - Annual fire safety-essential fire safety

G002 - Section 73

G004 - Integral Energy

H001 - Stamped plans & erection of site notice

H002 - All forms of construction

H041 - Hours of work

K027 - Car parking

K033 - Customer parking sign

L001 - General landscaping

L002 - Landscape construction

L003 - Report requirement

- L005 - Planting of plant material
- L006 - AS requirements
- L008 - Tree Preservation Order
- Q01F - Notice of Commencement & Appointment of PCA
- Q006 - Occupation Certificate for Class 2-9

Special Conditions

- 2.01 The following matters shall be adhered to at all times throughout the operation of the development: -
- No trucks larger than a medium rigid classification, as defined by AS2890.2, are to access the development from Pattys Place, in this regard signage at both Patty's Place and the Wolseley Street roundabout should be installed by the applicant.
 - Wheel stops should be installed in accordance with AS 2890.1.2004 in all parking spaces where a vehicle may overhang a footpath or other travel lane
 - All travel lanes in the car park shall be designed to cater for 2 way movement. Refer to AS 27890.1.2004 S2.3.2
 - All line marking, and sign posting shall be provided at all roundabouts associated with the development in accordance with RTA and Austroads requirements.
 - "Giveaway" signs and hold lines should be provided adjacent to the basement entry ramp and at the left slip lane at the north east corner of the proposed new building.
 - The proposed signage on the roundabout in Patty's Place shall be designed and installed to ensure sight distance is achieved in accordance with appropriate standards for all vehicles on and approaching the roundabout.
- 2.02 Matters detailed in the Sydney Regional Development Advisory Committee's letter dated 1 October 2009 that is appended to this consent shall be complied with throughout the relevant stages of the development.
- 2.03 Pedestrian access shall be addressed at the following locations on the subject site: -
- North eastern corner of the proposed addition adjacent to Anaconda;
 - Pedestrian ramp from the basement and verandah facing east of the existing building in front of Decorug;
 - Across Pattys Place to the north of the existing roundabout; and
 - Across the exit point from the basement car park to Pattys Place.
- Appropriate line markings by way of pedestrian crossings and direction signage shall be installed where necessary to ensure safe pedestrian movement throughout the site and surrounds.
- 2.04 Customer seating shall be provided in regular spaced intervals within the

mall corridor of the development.

During the construction of the subject development, access to the satisfaction of the NSW Fire Brigades, must be provided to and around the existing building to facilitate fire brigade intervention in accordance with Clause CP9 of the Building Code of Australia (Volume 1). Documentary evidence of the NSW Fire Brigades approval of the access arrangements shall be submitted to Council prior to the issue of the Construction Certificate for the subject development.

The following matters shall be complied with at all times: -

Lighting

- Lighting shall be ‘vandal resistant’ to limit breakage and vandalism.
 - Lighting shall take into account all vegetation and landscaping in the car park and pedestrian pathways.
 - Lighting shall be designed in accordance with Australian Standards.
 - All loading docks shall be well lit.
 - All entries/exits to centre shall be well lit.
 - All lighting shall be white light to the relevant Australian standards.
 - Lighting shall be consistent in order to reduce the contrast between shadows and illuminated areas.
 - Lighting shall be contained within the property boundary and no light shall be projected upwards.
-
- Pedestrian access routes shall be well lit by lighting levels (Category P3), making pedestrian routes clearly identifiable throughout the parking areas

Car Parking – ground level

- Pedestrian crossing locations will be identified within the car park as required.
- Regular gardening maintenance is to be undertaken in the car park to ensure that foliage does not obscure sight lines.
- Landscaping must not conceal the pedestrian entry and exit points to the car park.

Landscaping

- Vegetation with top to bottom foliage should be avoided, low ground cover or high canopied vegetation is preferred.
- Medium height (between 1 and 2 metres in height) planting should be avoided as it provides concealment opportunities.

Communal/Public Areas

- No seating is permitted in communal or public areas near or adjacent to ATM’s, public phone boxes, and toilets, or within corridors.
- Subject to compliance with the preceding bullet point, seating is to be provided in active use areas.

Security

- The centre shall be fitted with a back to base alarm system for after hours security.
- Particular attention should be given to security of entry/exit points of the building and loading dock areas.
- All windows and other external glazed surfaces on the ground floor must be made of toughened glass to reduce the opportunities for break and enter offences.
- Decorative styled bollards shall be installed in front of plate glass windows and doors (removable at doors) to prevent opportunities for “ram raids”.
- Entrances to public toilets will be clear of all screening to allow surveillance by members of the public, centre staff and security.

General

- Trade waste bins are not to be accessible to the public or left unsupervised for collection.
- The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism shall be immediately removed/repaired.

- 2.05 During the construction of the subject development, the fire hydrant system for the existing building must facilitate the needs of the NSW Fire Brigades in accordance with Clause EP1.3 of the Building Code of Australia (Volume 1). Documentary evidence of the NSW Fire Brigades approval of the fire hydrant arrangements shall be submitted to Council prior to the issue of the Construction Certificate for the subject development.
- 2.06 A minimum 1 metre wide clear path of travel from the existing building’s eastern mall exit shall be provided in alternative directions to open space, during construction of the subject development. A hoarding shall be provided to protect persons using this exit to the satisfaction of Council, until the issue of the final occupation certificate. Adequate lighting, emergency lighting and illuminated exit signs shall be provided in the hoarding in accordance with Clauses E4.2, E4.5, E4.6 & F4.4 of the Building Code of Australia.
- 2.07 During the construction of the subject development, there shall be no interference with the fire safety measures in the existing building at all times when the building is normally occupied, unless approved by Council in writing.
- 2.08 The applicant shall provide 60 parking spaces for the use of staff of Harvey Norman and Domayne employees only.
- 2.09 Any Construction Certificate issued by the Principal Certifying Authority or Certifying Authority shall incorporate plans and details for erosion and

sediment control in accordance with the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

2.10 Stormwater runoff from car parking areas shall be directed to a stormwater pre-treatment system. The treatment devices shall be designed to remove the following pollutant loadings:

- 90% Litter
- 85% Suspended Solids
- 65% Phosphorous
- 45% Nitrogen
- 90% Oil & grease

2.11 Any Construction Certificate issued by the Principal Certifying Authority or Certifying Authority shall incorporate:

- (a) Specification & installation details of the stormwater pre-treatment system; and
- (b) The approval of an operation and maintenance manual/ programme for the proposed device.

2.12 A copy of the approved operation and maintenance manual/ programme shall be submitted to Penrith City Council with notification of the Construction Certificate issue.

2.13 Prior to the issue of a Construction Certificate a Roads Act application, including payment of appropriate application and inspection fees shall be lodged with Penrith City Council, as the Roads Authority, for the following works:

- (a) Opening the road reserve for the provision of services including stormwater.
- (b) Placing of hoardings, containers, waste skips, etc. in the road reserve.

All works within the road reserve shall be carried out in accordance with Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works.

Penrith City Council (being the Roads Authority under the Roads Act) shall approve the works completed on or over the road reserve. Contact Council's **City Works Department** on (02) 4732 7777 to arrange an inspection of the works (and payment of inspection fees, if required).

2.14 Prior to the issue of a Construction Certificate for building or subdivision works the Principal Certifying Authority and/ or Certifying Authority shall ensure that a Roads Act application, including the payment of appropriate fees, for the following works, has been lodged with, and approved by Penrith City Council (being the Roads Authority under the Roads Act).

1. Alterations to Gibbs Street Roundabout.
2. Footpaving: a 1.5m wide footpath is to be provided to link the footpaths within the development site to the existing footpath network in Patty's Place. A 1.5m wide footpath is to be provided on the northern side of Wolseley Street, from the development site to connect to the existing footpath system at the intersection of Wolseley Street and Mulgoa Roads.

Civil design drawings are to be prepared strictly in accordance with Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works.

The lodgement of plans shall be accompanied by a signage and linemarking plan and a Road Safety Audit addressing the proposed modifications to the roundabout on Gibbs Street.

Note:

1. Where Penrith City Council is the Certifying Authority for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
 2. Contact Penrith City Council's **Development Engineering Unit** on (02) 4732 7777 to ascertain applicable fees.
- 2.15 Prior to the issue of any Construction Certificate a performance bond is to be lodged with Penrith City Council for road works associated with the alteration to the roundabout on Gibbs Street and footpaving.

The value of the bond shall be determined in accordance with Penrith City Council's Bond Policy. The bond will be administered in accordance with this policy.

Note:

Contact Council's **Development Engineering Unit** on 4732 7777 for further information relating to bond requirements.

- 2.16 Prior to the issue of a Construction Certificate Roads and Traffic Authority approval shall be obtained for the proposed intersection works with Mulgoa Road.
- 2.17 A Construction Certificate shall be issued by a Certifying Authority to include the following civil works.
- (a) On-site detention system
 - (b) Provision of internal roads with treatments to delineate the private road system at the entry points from Gibbs Street and Pattys Place
 - (c) Internal roundabout

- (d) Stormwater drainage
- (e) Stormwater pre-treatment system
- (f) Earthworks
- (g) Car park
- (h) Retaining walls
- (i) Paving works
- (j) Linemarking and signage

Civil design drawings shall be prepared strictly in accordance with Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works and applicable Australian Standards.

- 2.18 On-site detention shall be provided generally in accordance with the stormwater management plan, Master_DA_2 Revision 1 dated August 2009 and associated concept plans, prepared by Henry & Hymas, reference number 08497_DA2_C100 to C104, revision 1, dated 3/08/2009.

Detailed engineering plans and supporting calculations for the on-site detention system are to be prepared by a qualified Hydrologic/Hydraulic Engineer and shall accompany the application for a Construction Certificate.

The Certifying Authority shall ensure that the on-site detention system is structurally adequate and that it has been designed to be compliant with the Occupational Health and Safety Act and for ease of maintenance.

Any Construction Certificate issued by the Principal Certifying Authority or Certifying Authority shall also incorporate the approval of an operation and maintenance manual for the proposed device.

A copy of the approved operation and maintenance manual shall be submitted to Penrith City Council with notification of the Construction Certificate issue.

- 2.19 Prior to the issue of a Construction Certificate the Principal Certifying Authority shall ensure that new vehicular access, pedestrian access, carparking and manoeuvring areas proposed by the subject development are in accordance with AS 2890.1, AS2890.2 and Penrith City Council's Development Control Plan.
- 2.20 Prior to the commencement of works on site, including approved clearing of site vegetation, erosion and sediment control measures shall be installed. The erosion and sediment control measures are to be installed in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.
- 2.21 Prior to commencement of works for the roundabout on Gibbs Street a Traffic Control Plan including details for pedestrian management, shall be prepared in accordance with AS1742.3 "Traffic Control Devices for

Works on Roads” and the Roads and Traffic Authority’s publication “Traffic Control at Worksites” and certified by an appropriately accredited Roads and Traffic Authority Traffic Controller.

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note:

A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.

- 2.22 Prior to the Commencement of Works a dilapidation report of all Council owned infrastructure fronting the development in Gibbs Street and Pattys Place is to be submitted to Penrith City Council. 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.
- 2.23 Erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.
- 2.24 Prior to the issue of any Occupation Certificate Lots 10 and 11 in DP 1046110 are to be consolidated as one lot via registration of a plan with the Land and Property Information division of the Department of Lands.
- 2.25 Prior to the issue of an Occupation Certificate any necessary easements, rights of carriageway and covenants shall be created or extinguished, as required, to facilitate the proposed development.
- 2.26 After completion of all civil works, works-as-executed drawings and compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council’s Design and Construction Guidelines and Construction Specification for Civil Works.
- An original set of works-as-executed drawings and copies of compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the **Occupation Certificate** where Council is not the Principal Certifying Authority.
- 2.27 Prior to the issue of the Occupation Certificate the Principal Certifying Authority shall ensure that all civil works have been satisfactorily completed in accordance with the Construction Certificate, Penrith City Council’s Design and Construction Guidelines and Construction Specification for Civil Works, Australian Standards and relevant conditions of the development consent.
- 2.28 Prior to the issue of an Occupation Certificate the Certifying Authority shall ensure that the on-site detention and stormwater pre-treatment systems:

- Have been constructed in accordance with Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works, any Construction Certificate issued and relevant conditions of development consent.
- Will operate satisfactorily with regard to any variations or that suitable remedial works have been undertaken.
- Will operate in accordance with the design intent and Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works.

Details of the approved and constructed systems shall be provided as part of the works-as-executed drawings.

- 2.29 Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the on-site detention and stormwater pre-treatment systems, shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works.
- 2.30 Prior to the issue of an Occupation Certificate any damage to Council infrastructure not identified in the dilapidation report, as a result of the development shall be restored under the supervision of Penrith City Council. Any rectification works within Gibbs Street and Pattys Place will require a Roads Act application. The application is to be submitted and approved by Penrith City Council prior to such works commencing.
- 2.31 Prior to the issue of an Occupation Certificate directional signage and linemarking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifying Authority.
- 2.32 Prior to the issue of an Occupation Certificate a checklist and supporting documentation shall be submitted to the Principal Certifying Authority demonstrating that each condition of the development consent has been satisfactorily addressed.

The **Occupation Certificate** shall not be issued until all conditions of consent except those relating to ongoing operational matters, have been completed.

- 2.33 Prior to the issue of an Occupation Certificate, a maintenance bond is to be lodged with Penrith City Council for road works associated with the alteration to the roundabout on Gibbs Street.

The value of the bond shall be determined in accordance with Penrith City Council's Bond Policy. The bond will be administered in accordance with this policy.

Note: Contact Council's Development Engineering Unit on 4732 7777 for further information relating to bond requirements.

- 2.34 Prior to the issue of an Occupation Certificate a Flood Management & Evacuation plan shall be prepared to cater for the alterations and increased patronage as a result of the development. The recommendations of the Flood Management and Evacuation plan shall be incorporated into the Centre Management plans. A copy of the Flood Management & Evacuation plan shall accompany the notice of issue of the Occupation Certificate to Penrith City Council.
- 2.35 Details relating to measures for water re-use and energy efficient lighting, heating and cooling devices that are to be incorporated into the development are to be submitted to Penrith City Council prior to the issue of a Construction Certificate.
2. Delegated Authority be given to Council Officers for an additional condition to create an appropriate right of carriage in favour of SP72448, Street No. 301-335, Mulgoa Road, Jamisontown.
3. Twelve months after the commencement of the development, Council be provided with a traffic report which assesses post development traffic movements along Mulgoa Road.
4. Those making a submission be advised of Council's resolution.

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 Robert Ardill
Councillor Greg Davies
Councillor Ross Fowler OAM
Councillor Jackie Greenow
Councillor Prue Guillaume
Councillor Karen McKeown
Councillor Kath Presdee
Councillor John Thain

Against

Councillor Kevin Crameri OAM
Councillor Mark Davies
Councillor Tanya Davies
Councillor Marko Malkoc

17 Council Property - Cranebrook Village Shopping Centre

Councillor Ben Goldfinch returned to the meeting, the time being 11:01 pm.

Councillor Jim Aitken left the meeting, the time being 11:01 pm.

397 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor John Thain

That:

1. The information contained in the report on Council Property - Cranebrook Village Shopping Centre be received.
2. Council nominate AusPacific Property Group Pty Ltd as preferred tenderer and enter into negotiations for sale of the site.
3. A further report be presented to Council after the negotiations as outlined in the report.

18 Development Application 08/0395 Proposed Child Care Centre located at Lot 216 DP 849247 (No. 88-94) Grays Lane, Cranebrook. Applicant: Cultured Stone Australia; Owner: Kieu To and Thi Noh Pham DA08/0395

Councillor Jim Aitken OAM returned to the meeting, the time being 11:04 pm.

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

That:

1. The information contained in the report on Development Application 08/0395 Proposed Child Care Centre located at Lot 216 DP 849247 (No. 88-94) Grays Lane, Cranebrook be received.
2. Council invite the Court to make consent orders to uphold the Appeal and impose the conditions that are generally referred to in this report.
 1. A001 – Approved plans and recommendations within listed reports
 2. A011 – Engineering Works DCP
 3. A019 – Occupation Certificate
 4. A021 – Business registration
 5. A026 – Advertising
 6. A029 – Hours of operation and delivery times will be 6:30 am to 6:30 pm, Monday to Friday – no weekends or public holidays.
 7. A038 – Lighting locations
 8. A046 – Obtain a Construction Certificate
 9. B001 – Demolition of dwelling on Lots 227 & 227A DP 2147
 10. B002 – Demolition and disposal of approved landfill
 11. B003 – Asbestos

12. B004 – Dust
13. B005 – Mud/Soil
14. B006 – Hours of work
15. C003 – Uncovering relics
16. D001 – Sediment and erosion control measures
17. D002 – Spray grass
18. D006 – No fill without validation certificate
19. D010 – Appropriate disposal of excavated or other waste
20. D014– Plant and equipment noise
21. D125 – Water quality
22. E01A – BCA compliance for Class 2-9
23. E002 – BCA issues to be addressed
 - Access for persons with disabilities, in particular circulation space around doors, width of doors and sanitary facilities.
 - Details of the proposed door furniture for doors in the path of travel to an exit and required exit doors.
 - Details of the proposed air-handling system in relation to automatic shutdown by activation of smoke detectors (other than non-ducted individual room units with a capacity of not more than 1000 l/s and miscellaneous air exhaust systems).
 - Submission of a report demonstrating compliance with Section J of the Building Code of Australia with regard to energy efficiency, including building fabric, external glazing, sealing, air movement, air – conditioning systems and the like.
24. E006 – Disabled access and facilities
25. E008 – Fire safety list with CC
26. E009 – Annual Fire Safety
27. F001 – Food Act requirements
28. F022 – Commercial kitchens
29. G002 – Section 73 Certificate (Sydney Water)
30. G004 – Integral Energy
31. H001 – Stamped plans and erection of site notice
32. H003 – Traffic Management
33. H006– Waste management plan
34. H041 – Hours of work

35. H011 – Engineering plans and specification
36. I003 – Roads Act Approval 1
 - a) Opening of the road reserve for the provision of services including stormwater;
 - b) Placing of hoardings, containers, waste skips, etc, in the road reserve.
37. I004 – Roads Act Engineering
 - a) Opening the road reserve for the provision of services including stormwater.
 - b) Provision of a heavy duty concrete rural dish crossing and heavy duty concrete footway crossing 6m wide in accordance with AS 2890.2.
 - c) A concrete footpath shall be provided from the new driveway into the car park to the exiting footpath outside No 96-98 Grays Lane, Cranebrook.
38. K009 – OSD
39. K019 – Connection to Council’s system
40. K025 – Pavement Seal
41. K027 – Car parking provision
42. L001 – Landscape Plan
43. L002 – Landscape Construction
44. P001 – Costs
45. P002 – Fees associated with Council land (Prior to the issue of a Construction Certificate)
46. Q01F – Notice of commencement and appointment of PCA
47. Q006 – Occupation Certificate (delete after NSW Fire Brigades)
48. The childcare facility shall cater for no more than 90 children between the ages of 0 and 5 in the following manner:
 - 0-2 years old: 30 children
 - 2-3 years old: 20 children
 - 3-4 years old: 20 children
 - 4-5 years old: 20 childrenThe before and after care facility shall cater for no more than 43 children.
49. Retaining walls shall be of masonry construction.
50. Warm water to hand wash basins shall be provided in the staff toilets.
51. Appropriate signage is to be provided to the car park and

- entrance of the centre requesting patrons to minimise noise and protect the amenity of the surrounding neighbourhood.
52. Prior to the issuing of the occupation certificate a suitable signage plan is to be submitted to Council for approval.
53. The signage plan is to provide details on the location, sizing and wording of the proposed signs.
54. The signs are to be constructed prior to the issuing of the occupation certificate.
55. The 2.1m rear fence along the eastern boundary as required by the Noise Assessment report is to be constructed of colourbond material. The pool type fencing within this boundary shall be provided to a height of 1.8m.
56. The recommendations provided in Report No. 07291 entitled "Environmental Noise Impact Assessment (TD955-01F02)" prepared by Renzo Tonin and Associates dated 14th April 2008 implemented and incorporated into the design and construction of the development, and shall be shown on plans accompanying the Construction Certificate application. A report is to be obtained from a qualified acoustic consultant certifying that the development meets the relevant noise criteria and conditions of this consent. This report is to be submitted to the Principal Certifying Authority and Council within the first 6 to 9 months of operation of the childcare centre.
57. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.
58. A Noise Management Plan (NMP) is to be prepared and submitted to Penrith City Council for consideration and approval prior to the issue of the Construction Certificate. The NMP shall be prepared by suitably qualified consultants in consultation with Council and other relevant agencies, and may need to be amended to include the any comments provided by Council and other agencies. The NMP is to:
- address all noise related aspects of the development's construction and operational phases, and
 - address the relevant conditions of this consent pertaining to noise; and
 - recommend any systems/ controls to be implemented to minimise the potential for any adverse noise impact(s), and

- Incorporate a program for ongoing monitoring and review to ensure that the NMP remains contemporary with relevant environmental standards.

The approved Noise Management Plan is to be implemented at all times.

59. A maximum of 20 children are permitted in the outdoor play area at any one time in accordance with the recommendations provided in Report No. 07291 entitled "Environmental Noise Impact Assessment (TD955-01F02)" prepared by Renzo Tonin and Associates dated 14th April 2008
60. A public contact number is displayed on the childcare centre signage and must be operational during business hours. A complaint register is to be maintained and must include complaint details and any actions taken to address those complaints. A copy of the complaint register is to be provided to Council upon request.
61. In the event of on going noise complaints relating to the development being received by Council, the owner and/or occupier of the development maybe required by Council to obtain the services of a suitably qualified acoustic consultant to undertake a noise impact assessment on the development to address the concerns of the community.
62. The noise impact assessment report is to be prepared and provided to Council within 45 days of being requested. The assessment report is to be approved by Council, with any recommendations being implemented in accordance with the approved assessment report.
63. Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Sydney Water demonstrating that reticulated water and sewer will be made available to the development or that arrangements have been entered into for the provision of services to the development.
64. A freeboard of 300mm shall be provided between the top water level in the on-site-detention and the finished floor level of the childcare centre.
65. A 'No Stopping' zone shall be installed for a distance of 6m on either side of the driveway entrance to No 88-94 Grays Lane.
66. This consent does not allow site works, building or demolition works to commence nor does it imply that the

plans attached to this consent comply with the specific requirements of Building Code of Australia. Such works must only take place after a Principal Certifying Authority (PCA) has been appointed and a Construction Certificate has been issued.

67. The proposed childcare centre is to comply with the requirements of the Children Services Regulation 2004.
68. The drainage concept plan 090204E1 Rev A dated 9/10/2009 prepared by Barker Ryan Stewart is not approved. Prior to the issue of the Construction Certificate the following matters are to be addressed on a revised drainage concept plan and is to be approved by Council.
 - a) The pre-developed site has a ridgeline through it with part of the site draining to Willowgum Crescent to the north and the other part draining south through private property. Flows to existing catchments shall be replicated as far as possible. In this regard it is expected that flows not exceeding pre-development should be directed to Willowgum Crescent to avoid overloading the southern catchment and Grays Lane street system.
 - b) The proposed discharge to Grays Lane of 80L/s (20 year ARI) is not supported as this point discharge far exceeds Council's maximum rate of discharge to the kerb at 20L/s and there is no drainage in Grays Lane until the intersection with Hindmarsh Street. Flows exceeding 20L/s to Grays Lane are not permissible where gutter flow width exceeds 2.0m in Grays lane from the property in Hindmarsh Street.
 - c) Appropriate cover to the discharge pipe from in Grays Lane shall be demonstrated to meet AS 3500.
 - d) The invert level of the stormwater drainage connection to the kerb in Grays Lane shall also be confirmed to ensure that the car park levels are not required to be raised further.
69. Three additional closet fixtures requirements are to be provided for the development.
70. An easement shall be provided over the adjoining property to the south for the sewer extension to the site. Details of the easement and its beneficiaries are to be provided to Council prior to the issuing of an Occupation Certificate.

3. Those making a submission be advised of Council's resolution.

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 Kaylene Allison
Councillor Robert Ardill
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

Councillor Kevin Crameri OAM

There being no further business the Chairperson declared the meeting closed the time being 11:05 pm.

I certify that these 47 pages are the Confirmed Minutes of the Ordinary Meeting of Penrith City Council held on Monday 9 November 2009.

Chairperson

Date