

## **CONFIRMED MINUTES**

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

**ON MONDAY 30 NOVEMBER 2009 AT 7:39PM**

#### **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 Acting Executive Officer, Glenn Schuil.

#### **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, Prue Guillaume, Marko Malkoc, Karen McKeown, Kath Presdee and John Thain.

#### **LEAVE OF ABSENCE**

PRC 399 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor John Thain that Leave of Absence be granted for Councillor Jackie Greenow for the period 30 November 2009 to 11 December 2009 inclusive.

#### **APOLOGIES**

There were no apologies.

#### **CONFIRMATION OF MINUTES - Ordinary Meeting - 9 November 2009**

400 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Prue Guillaume that the minutes of the Ordinary Meeting of 9 November 2009 be confirmed, with the amendment showing Councillor John Thain being recorded as voting For the Motion in the first 3 Divisions called in Item 5 *Report and Recommendations of the Policy Review Committee meeting held on 21 October, 2009.*

**DECLARATIONS OF INTEREST**

Councillor Marko Malkoc declared a Pecuniary Conflict of Interest – in *Item 2 Outstanding issues relating to the public exhibition of draft Penrith Local Environmental Plan 2008* and *Item 5 Proposed amendments to draft Penrith Local Environmental Plan 2008* as his Uncle owns land in the Capitol Hill Estate.

Councillor Ben Goldfinch declared a Pecuniary Conflict of Interest –in *Item 2 Outstanding issues relating to the public exhibition of draft Penrith Local Environmental Plan 2008* and *Item 5 Proposed amendments to draft Penrith Local Environmental Plan 2008* as he has relatives who own property in the areas covered by the reports. Councillor Ben Goldfinch stated he would leave the meeting and take no part during discussion on these items.

Councillor Ben Goldfinch also declared a Pecuniary Interest in *Item 19 - Development Application DA09/0024 Proposed Demolition of Existing Dwelling and Construction of a Detached Dual Occupancy at Lot 1 DP 23031 (No. 82) Nepean Avenue, Penrith. Applicant: N F Billyard Pty Ltd; Owner: Kristie Lyn Pate DA09/0024* as he is a Director of a company that provides services to the applicant. Councillor Ben Goldfinch stated he would leave the meeting and take no part during discussion on these items.

Councillor Robert Ardill declared a Non-Pecuniary Conflict of Interest – Less than Significant in *Item 2 Outstanding issues relating to the public exhibition of draft Penrith Local Environmental Plan 2008* and *Item 5 Proposed amendments to draft Penrith Local Environmental Plan 2008* 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 who are affected by the bulky goods zoning issues.

Councillor Ross Fowler OAM declared a Pecuniary Interest in *Item 2 Outstanding issues relating to the public exhibition of draft Penrith Local Environmental Plan 2008*, *Item 4 Results of the public exhibition of amended planning provisions for Twin Creeks estate, Luddenham*, *Item 5 Proposed amendments to draft Penrith Local Environmental Plan 2008* and *Item 6 Proposed changes to draft Amendment No 1 to Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation)* 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 19 - Development Application DA09/0024 Proposed Demolition of Existing Dwelling and Construction of a Detached Dual Occupancy at Lot 1 DP 23031 (No. 82) Nepean Avenue, Penrith. Applicant: N F Billyard Pty Ltd; Owner: Kristie Lyn Pate DA09/0024* as the Applicant is a client of his. Councillor Ross Fowler OAM stated he would leave the meeting and take no part during the discussion on these items.

Councillor Jim Aitken OAM declared a Pecuniary Interest in *Item 2 Outstanding issues relating to the public exhibition of draft Penrith Local Environmental Plan 2008*, *Item 4 Results of the public exhibition of amended planning provisions for Twin Creeks estate, Luddenham*, *Item 5 Proposed amendments to draft Penrith Local Environmental Plan 2008*

and *Item 6 Proposed changes to draft Amendment No 1 to Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation)* as he owns / has an interest in property covered by the reports.

Councillor Jim Aitken OAM also declared a Non-Pecuniary Conflict of Interest – Less than Significant in *Item 3 Outstanding issues from the public exhibition of draft Amendment No. 1 to Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation)* as the report relates to heritage issues.

Councillor Jim Aitken OAM also declared Pecuniary Interest –in *Item 18- Development Application DA09/0369 Proposed Apartments comprising 11 x 2 Bedroom Units at Lot 27 Sec F & Lot 28 Sec F DP 978488 (No. 7 - 9) Lemongrove Road, Penrith. Applicant: Devcon Partners P/L; Owner: David John Reeves and James Ashley Aitken DA09/0369* as he is the owner of the property.

Councillor Jim Aitken OAM also declared Pecuniary Interest –in *Item 22- Development Application DA09/0670 Variation of Restrictive Covenant and Construction of a Single Storey Dwelling and Garage Lot 8 DP 1115288 (No. 348) Littlefields Road, Mulgoa. Applicant: Mr. J Prgomelja; Owner: Mr. J Prgomelja DA09/0670* as he is a Director of a Company that sold this property.

Councillor Greg Davies declared a Pecuniary Interest in *Item 3 Outstanding issues from the public exhibition of draft Amendment No. 1 to Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation)* and *Item 6 Proposed changes to draft Amendment No 1 to Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation)* as he had exchanged voting preferences with one of the property owners at the last Penrith City Council local government election.

Councillor Kath Presdee declared a Non-Pecuniary Conflict of Interest – Less than Significant in *Report and Recommendations of the Policy Review Committee meeting held on 16 November, 2009 - Item 2 – Penrith City Children’s Services Cooperative Ltd* as she is a member of the Werrianda Children’s Centre Parent Advisory Committee.

Councillor Kath Presdee also declared a Non-Pecuniary Conflict of Interest – Less than Significant in *Item 21 Development Application DA09/0809, DA09/0811 and DA09/0812 for the Stage 1A, 1B and 1C Residential Subdivisions in the Western Precinct of the St Marys Release Area at Lot 2 DP 1132380, (No. 1070 - 1274) The Northern Road, Llandilo. Applicant: Maryland Development Company; Owner: St Marys Land Ltd DA09/0809 DA09/0811 DA09/0812* as she resides in a suburb adjacent to the area in the report.

Councillor Kaylene Allison declared a Pecuniary Interest in *Item 2 Outstanding issues relating to the public exhibition of draft Penrith Local Environmental Plan 2008, Item 3 Outstanding issues from the public exhibition of draft Amendment No. 1 to Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation), Item 5 Proposed amendments to draft Penrith Local Environmental Plan 2008 and Item 6 Proposed changes to draft Amendment No 1 to Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation)* as she had exchanged preferences with one of the property owners at the last local government election and also her Uncle owns land in Kemps Creek. Councillor Kaylene Allison stated she would leave the meeting and take no part during discussion of these items.

His Worship the Mayor Councillor Kevin Crameri OAM declared a Pecuniary Interest in *Item 2 Outstanding issues relating to the public exhibition of draft Penrith Local Environmental Plan 2008 and Item 5 Proposed amendments to draft Penrith Local Environmental Plan 2008*. His Worship the Mayor Councillor Kevin Crameri OAM stated he would leave the meeting and take no part during discussion on the item.

His Worship the Mayor Councillor Kevin Crameri OAM also declared a Non-Pecuniary Conflict of Interest – Less than Significant in *Item 21 Development Application DA09/0809, DA09/0811 and DA09/0812 for the Stage 1A, 1B and 1C Residential Subdivisions in the Western Precinct of the St Marys Release Area at Lot 2 DP 1132380, (No. 1070 - 1274) The Northern Road, Llandilo. Applicant: Maryland Development Company; Owner: St Marys Land Ltd DA09/0809 DA09/0811 DA09/0812* as he owns property in an adjacent area to that covered by the report. His Worship the Mayor Councillor Kevin Crameri OAM stated he reserves his right to take part in discussion on this item.

### **SUSPENSION OF STANDING ORDERS**

401 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor John Thain that Standing Orders be suspended to allow members of the public to address the meeting, the time being 7:45pm.

#### **Mr Ron Mulock**

*Item 2 – Outstanding issues relating to the public exhibition of draft Penrith Local Environmental Plan 2008*

Mr Ron Mulock, applicant's spokesperson, spoke against the recommendation raising points concerning agricultural uses, and the minimum lot sizes for dual occupancy in Capitol Hill. Mr Mulock acknowledged agricultural use rights are now included in the draft LEP for the property known as 19-105 Capitol Hill Drive, Mount Vernon. Mr Mulock also requested that Council amend subclause (9) Secondary Dwellings of Clause 5.4 Controls relating to miscellaneous permissible uses, increasing the permissible size of a secondary dwelling from 10% to 20% of the total floor area of both the self contained dwelling and the principal dwelling.

#### **Mr Tony Agostino**

*Item 2 – Outstanding issues relating to the public exhibition of draft Penrith Local Environmental Plan 2008*

Mr Tony Agostino, a landowner, spoke in opposition to the recommendation. Mr Agostino requested that the decision be deferred to allow for a response from the local member of parliament, as he has an appeal currently before the NSW court of Appeal.

#### **Ms Lorraine Debono**

*Item 5 – Proposed amendments to draft Penrith Local Environmental Plan 2008*

Ms Lorraine Debono, affected person spoke in opposition to the recommendation on behalf of her family and other residents of Llandilo and Londonderry and expressed her and other

residents concern with the proposed Environmentally Sensitive Land Hatching and the impact this may have on the value of her property. Ms Debono stated that when her property was purchased there were no restrictions on her section 149 certificate.

**Ms Phyllis Jones**

*Item 5 – Proposed amendments to draft Penrith Local Environmental Plan 2008*

Ms Phyllis Jones, affected person spoke in opposition to the recommendation and reiterated as in her previous submissions that the property was only a church for 40 years, and has been a residence since the late 1940s. Ms Jones indicated that there has been a lot of structural work carried out in the conversion from a church to a residence. Ms Jones claimed that interest from potential buyers in her property has been affected by the possible heritage listing.

**Mr Scott Greenow**

*Item 3 – Outstanding issues from the public exhibition of draft Amendment No. 1 to Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation)*

Councillor Mark Davies left the meeting, the time being 8:02pm.

Councillor Mark Davies returned to the meeting, the time being 8:04pm.

Mr Scott Greenow, affected person spoke in opposition to the recommendation and provided reasons why 16 & 18 Pages Road, St Marys should not be heritage listed. Mr Greenow questioned how the heritage assessments carried out can be taken as fact, when they had failed to accurately describe materials used to construct the properties and further more asked why neither heritage assessment explained how the construction date was arrived at. Mr Greenow spoke of the cost of owning a heritage item and the restrictions that are placed on owners of a heritage property, and also enquired as to how the Pages Road properties can be listed, when a similar property in 55 Brougham Street, Emu Plains is not. Mr Greenow concluded that out of a total of 22 questions submitted to Council on the 21 October 2009 only 7 were responded to by Council's staff. Mr Greenow stated that the response to these questions did not allow enough time for a heritage consultant to prepare a full heritage assessment however information was provided after a thorough inspection had been carried out by a heritage consultant.

**Mr Graham McKee**

*Item 4 – Results of the public exhibition of amended planning provisions for Twin Creeks estate, Luddenham*

Mr Graham McKee, affected person spoke in opposition of the recommendation and requested Councillors amend the resolution to include the land in Area C and to increase the number of lots. Mr McKee outlined a brief history of the exhibition and subdivision development application and also the benefits of including the subject area for rezoning. Mr McKee concluded by highlighting the opportunity to benefit a single landholder without adversely affecting Twin Creeks or other residents.

**Mr Noel Billyard**

*Item 19 – Development Application DA09/0024 Proposed Demolition of Existing Dwelling and Construction of a Detached Dual Occupancy at Lot 1 DP 23031 (No. 82) Nepean Avenue, Penrith. Applicant: N F Billyard Pty Ltd; Owner: Kristie Lyn Pate DA09/0024*

Mr Noel Billyard, applicant spoke in opposition of the recommendation and questioned the flooding information for which was the basis of refusal for the application and why it had not been provided within the report. Mr Billyard spoke about the site being in an area which has had continuous development similar to their proposal and his application has been refused on new flood information which has not been provided, despite requests and requested this information be provided and the item deferred..

**Mr Arthur Ilias**

*Item 21 – Development Application DA09/0809, DA09/0811 and DA09/0812 for the Stage 1A, 1B and 1C Residential Subdivisions in the Western Precinct of the St Marys Release Area at Lot 2 DP 1132380, (No. 1070 - 1274) The Northern Road, Llandilo. Applicant: Maryland Development Company; Owner: St Marys Land Ltd DA09/0809 DA09/0811 DA09/0812*

Mr Arthur Ilias, applicant, spoke in support of the recommendation and outlined how Council's approval of the Western Precinct demonstrates a strong commitment to sustainability, environmental issues, and socially responsible and economically viable outcomes, consistent with Council's Sustainability Blueprint. Mr Ilias stated that their ecological consultant and Council's independent consultant concluded that the proposals are not likely to have a significant effect on the identified ecological communities, and that while some trees will be removed, it must be remembered that 60% of the site will be preserved for conservation purposes.

**Mr Matthew Hazell**

*Item 21 – Development Application DA09/0809, DA09/0811 and DA09/0812 for the Stage 1A, 1B and 1C Residential Subdivisions in the Western Precinct of the St Marys Release Area at Lot 2 DP 1132380, (No. 1070 - 1274) The Northern Road, Llandilo. Applicant: Maryland Development Company; Owner: St Marys Land Ltd DA09/0809 DA09/0811 DA09/0812*

Mr Matthew Hazell, affected person, spoke in opposition of the recommendation and asked for a definition of what a Collector Road is as indicated on the maps sent to him. Mr Hazell also asked Council to consider the infrastructure needs that will be required with the associated development of this area, such as street lighting, parking and public transport. Mr Hazell concluded by asking what will happen with the native wildlife in the area.

**Mr Geoff Brown**

*Item 2 - Outstanding issues relating to the public exhibition of draft Penrith Local Environmental Plan 2008; Item 5 - Proposed amendments to draft Penrith Local Environmental Plan 2008; Item 21 - Development Application DA09/0809, DA09/0811 and DA09/0812 for the Stage 1A, 1B and 1C Residential Subdivisions in the Western Precinct of the St Marys Release Area at Lot 2 DP 1132380, (No. 1070 - 1274) The Northern Road, Llandilo. Applicant: Maryland Development Company; Owner: St Marys Land Ltd DA09/0809 DA09/0811 DA09/0812 and; Item 23 - Draft Cumberland Plain Recovery Plan*

Mr Geoff Brown, affected person spoke in opposition of the recommendation to a number of items. Mr Brown discussed environmental issues due to the inadequate zonings in the LEP and also highlighted that the LEP is inconsistent with the Cumberland Plain Recovery Plan. Mr Brown also asked why the ADI site Development Application allows destruction of the CPW and why Council didn't get the Cumberland Ecology reports peer reviewed when assessing the Precinct Plans. Mr Brown requested Council to defer the Deerubin Business Plan to Stage 2 of the LEP.

## **RESUMPTION OF STANDING ORDERS**

402 RESOLVED on the MOTION of Councillor Prue Guillaume seconded Councillor Greg Davies that Standing Orders be resumed, the time being 8:31pm.

Councillor Mark Davies left the meeting, the time being 8:32pm

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

## **MAYORAL MINUTES**

### **1 Penrith recognised for excellent water management**

403 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Ross Fowler OAM that the Mayoral Minute on Penrith recognised for excellent water management be received.

Councillor Ross Fowler OAM congratulated Council's staff for achieving Council's aims in water management.

### **2 Penrith City celebrations a great success**

404 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Jim Aitken OAM that the Mayoral Minute on Penrith City celebrations a great success be received.

### **3 Councillor Greenow recognised for service to community**

405 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded Councillor Ross Fowler OAM that the Mayoral Minute on Councillor Greenow recognised for service to community be received.

Councillor Ross Fowler OAM advised the Council that he had attended the Western Sydney Academy of Sport Awards night on behalf of the Mayor on 28 November 2009. Councillor Fowler OAM advised that Ms Jessica Fox was awarded a scholarship. Councillor Fowler OAM presented a plaque that Council received from the Academy of Sport in appreciation of Council's support of the Academy's athletes.

## **REPORTS OF COMMITTEES**

**1 Report and Recommendations of the Policy Review Committee meeting held on 16 November, 2009**

406 RESOLVED on the MOTION of Councillor Kath Presdee seconded Councillor Ross Fowler OAM that the recommendations contained in the Report and Recommendations of the Policy Review Committee meeting held on 16 November, 2009 be adopted, with the amendment to Councillor Kath Presdee's declaration of interest to read "Werrianda" Children's Centre Parent Advisory Committee.

**Procedural Motion**

His Worship the Mayor, Councillor Kevin Crameri OAM indicated that *Item 26 - Penrith Valley Cultural Precinct - Progress Report* should be considered prior to the consideration of *Item 1 - 2009-10 Operational Plan - September Quarter Review*, because the former report details the variations that have been incurred during the construction of the Penrith Valley Cultural Precinct.

407 RESOLVED on the MOTION of Councillor Jim Aitken OAM seconded Councillor Tanya Davies that *Item 26 - Penrith Valley Cultural Precinct - Progress Report* be brought forward.

**DELIVERY PROGRAM REPORTS**

**A LIVEABLE CITY**

**26 Penrith Valley Cultural Precinct - Progress Report**

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

That:

1. The information contained in the report on Penrith Valley Cultural Precinct - Progress Report be received.
2. A S96 application be submitted to address a shortfall in parking from the approved plans as a result of project changes and site constraints.

**A LEADING CITY**

**1 2009-10 Operational Plan - September Quarter Review**



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

That:

1. The information contained in the report on 2009-10 Operational Plan - September Quarter Review be received.
2. The 2009-10 Operational Plan Review as at 30 September 2009, including the revised estimates identified in the recommended budget, be adopted.
3. The recommended consolidation of Services and changes to Service names in the report be adopted.
4. Rates Abandonments of \$176,000 for 2009-2010 be written off
5. The "Traffic and Parking Management" service be renamed to "Traffic Management, Parking and Road Safety" service.

### **Comment from Director – Craig Butler**

The Darug Tribal Aboriginal Corporation has a land claim. This covers a very extensive area and includes lands within Penrith. The claim was lodged in 1997 and is yet to be determined.

Late last week a letter was received from a third party. The letter, which is from the Darug Tribal Aboriginal Corporation, claims that native title has not been adequately considered in preparing and advancing the draft LEP.

Council's officers have previously consulted with the Corporation on at least three occasions and this point has not been made by the Corporation. Based upon our experience and understanding of the EP&A Act, we believe due process has been followed in the preparation of the draft LEP.

If Council adopts the recommendations this evening, there are drafting changes to be made to the Plan before it can be sent to the Minister for Planning for it to be made. This will allow time to further examine the Corporation's assertions and to confer with the Department of Planning.

I have circulated to the Councillors a draft recommendation which I feel will provide the Council with comfort that the Plan will not be advanced to the Minister without our current view on this matter being corroborated.

### **Procedural Motion**

His Worship the Mayor, Councillor Kevin Crameri OAM indicated that *Items, 2,3,4,5,6 will be dealt with in the following order, 2,5,3,6,4 to assist with managing Councillors Pecuniary Interest in these reports.*

410 RESOLVED on the MOTION of Councillor Kath Presdee seconded Councillor Prue Guillaume that Items 2,3,4,5,6 be dealt with in the following order 2,5,3,6,4.

Having previously declared a Pecuniary Interest in *Item 2 Outstanding issues relating to the*

*public exhibition of draft Penrith Local Environmental Plan 2008 and Item 5 Proposed amendments to draft Penrith Local Environmental Plan 2008.*, His Worship the Mayor Councillor Kevin Cramer OAM called for nominations from the Councillors to chair the meeting.

411 RESOLVED on the MOTION of Councillor Jim Aitken OAM seconded Councillor Greg Davies that Councillor John Thain Chair the meeting for Items 2 & 5.

Councillor John Thain Chair then indicated that he wished to speak during discussion of *Item 5 Proposed amendments to draft Penrith Local Environmental Plan 2008* and would vacate the chair when Item 5 was considered.

His Worship the Mayor called for nominations from the Councillors to chair the meeting during the discussion of *Item 5 Proposed amendments to draft Penrith Local Environmental Plan 2008*.

412 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Kath Presdee that Councillor Karen McKeown Chair the meeting for the discussion of Item 5.

Having previously declared an interest, His Worship the Mayor, Councillor Kevin Cramer OAM left the meeting, the time being 9:06pm.

Having previously declared an interest the following Councillors left the meeting the time being 9:06pm.

Councillor Ross Fowler OAM.

Councillor Jim Aitken OAM.

Councillor Marko Malkoc.

Councillor Ben Goldfinch.

Councillor Kaylene Allison.

Councillor John Thain took the Chair for consideration of Item 2, the time being 9:07pm.

## **2 Outstanding issues relating to the public exhibition of draft Penrith Local Environmental Plan 2008**

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

That:

1. The information contained in the report on Outstanding issues relating to the public exhibition of draft Penrith Local Environmental Plan 2008 be received.
2. The recommendations included in the Attachment to this report be adopted with the following amendments:

Submission No 448; 2075-2113 The Northern Road and 1-29 Bradley Street, Glenmore Park.

Delete the proposed amended recommendation: “That the land zoned E4 along The Northern Road, Glenmore Park be deferred from the draft Plan and reinserted into draft Local Environmental Plan 2010 (Stage 2) without a change in the zoning” and insert “That the land located at 2075-2113 The Northern Road and 1-29 Bradley Street, Glenmore Park be deferred from the draft Plan and reviewed as part of draft Local Environmental Plan 2010 (Stage 2)”.

Submission No 659; 19-105 Capitol Hill Drive, Mount Vernon

Insert “Proposed Recommendation: Include the land located at 19-105 Capitol Hill Drive, Mount Vernon in Schedule 1: Additional Permitted Uses, of the draft Penrith Local Environmental Plan 2008 with the additional permitted use of ‘Agriculture’.

3. That the comments of the Director be noted and should it be subsequently determined by the Director that further communication be required with applicants to a current native title claim then that communication be put in place and if required the matter be remitted back to Council.
4. Delete subclause (6) from Clause 6.9 Dual occupancy and secondary dwellings in certain rural and environmental zones, of draft Penrith Local Environmental Plan 2008; and
5. Insert objectives into Clause 6.9 Dual occupancy and secondary dwellings in certain rural and environmental zones, of draft Penrith Local Environmental Plan 2008, that will ensure the protection of waterways and the amenity of neighbouring lots through the treatment and retention of all effluent on-site.

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

**For**

Councillor Mark Davies  
Councillor Greg Davies  
Councillor Tanya Davies  
Councillor Kath Presdee  
Councillor John Thain

**Against**

Councillor Karen McKeown  
Councillor Robert Ardill  
Councillor Prue Guillaume

**5 Proposed amendments to draft Penrith Local Environmental Plan 2008**

Having previously stated that he wished to speak to this Item, Councillor John Thain vacated the Chair.

Councillor Karen McKeown took the Chair for consideration of this item, the time being 9:21pm.

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414 RESOLVED on the MOTION of Councillor Mark Davies seconded  
Councillor Robert Ardill

That:

1. The information contained in the report on Proposed amendments to draft Penrith Local Environmental Plan 2008 be received.
2. The changes to the written instrument and maps of draft Penrith Local Environmental Plan 2008 shown in Attachment 1 be made.
3. Following the changes, draft Penrith Local Environmental Plan 2008 be forwarded to the Minister for Planning under section 68 of the Environmental Planning and Assessment Act, with a request that the Minister make the plan.
4. The following Additional Permitted Uses be included in Schedule 1:  
“Submission No. 659; 19-105 Capitol Hill Drive, Mount Vernon  
List ‘agriculture’ as an additional permissible use for this site”.
5. The wording in Schedule 2 - Rural Truck Keeping be amended from “two trucks or Plant” to read “ two trucks and associated plant”.
6. The proposed listing of 34-36 Preston Street, Jamisontown (the former Holy Trinity Church) as a heritage item is deferred to Stage 2 of the Local Plan process to allow for the review of its heritage significance.
7. That the comments of the Director be noted and should it be subsequently determined by the Director that further communication be required with applicants to a current native title claim then that communication be put in place and if required the matter be remitted back to Council.
8. Delete subclause (6) from Clause 6.9 Dual occupancy and secondary dwellings in certain rural and environmental zones, of draft Penrith Local Environmental Plan 2008; and
9. Insert objectives into Clause 6.9 Dual occupancy and secondary dwellings in certain rural and environmental zones, of draft Penrith Local Environmental Plan 2008, that will ensure the protection of waterways and the amenity of neighbouring lots through the treatment and retention of all effluent on-site.
10. The recommendations included in the Attachment to this report be adopted with the following amendments:  
Submission No 448; 2075-2113 The Northern Road and 1-29 Bradley Street, Glenmore Park.  
Delete the proposed amended recommendation: “That the land zoned E4 along The Northern Road, Glenmore Park be deferred from the draft Plan and reinserted into draft Local Environmental Plan 2010 (Stage 2) without a change in the zoning” and insert “That the land located at 2075-2113 The Northern Road and 1-29 Bradley Street, Glenmore Park be deferred from the draft Plan and reviewed as part of draft Local Environmental Plan 2010 (Stage 2).”  
Submission No 659; 19-105 Capitol Hill Drive, Mount Vernon  
Insert “Proposed Recommendation: Include the land located at 19-105

Capitol Hill Drive, Mount Vernon in Schedule 1: Additional Permitted Uses, of the draft Penrith Local Environmental Plan 2008 with the additional permitted use of 'Agriculture'.

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

**For**

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

**Against**

His Worship the Mayor, Councillor Kevin Crameri OAM, returned to the meeting and took the Chair the time being 9:28pm.

The following Councillors returned to the meeting the time being 9:28pm:

Councillor Marko Malkoc  
Councillor Ben Goldfinch

Having previously declared a Pecuniary Interest, Councillor Greg Davies left the meeting the time being 9:29pm.

**3 Outstanding issues from the public exhibition of draft Amendment No. 1 to Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation)**

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A MOTION was MOVED by Councillor Robert Ardill seconded Councillor Ben Goldfinch

That:

1. The information contained in the report on Outstanding issues from the public exhibition of draft Amendment No. 1 to Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation) be received.
2. House Numbers 14, 16 and 18 Pages Rd, St Marys, be retained in Schedule 1 of draft Amendment 1 to Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation).

415 An AMENDMENT was MOVED by Councillor John Thain seconded Councillor Karen McKeown

That:

1. The information contained in the report on Outstanding issues from the public exhibition of draft Amendment No. 1 to Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation) be received.
2. The proposed listing of 14, 16 and 18 Pages Rd, St Marys, as heritage items be deferred to Stage 2 of the Local Plan process.

**For**

Councillor Kath Presdee  
Councillor John Thain  
Councillor Karen McKeown  
Councillor Kevin Cramer OAM  
Councillor Prue Guillaume

**Against**

Councillor Mark Davies  
Councillor Ben Goldfinch  
Councillor Tanya Davies  
Councillor Marko Malkoc  
Councillor Robert Ardill

On being PUT to the meeting, the AMENDMENT was CARRIED and becoming the MOTION was also CARRIED.

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

**For**

Councillor Kath Presdee  
Councillor John Thain  
Councillor Karen McKeown  
Councillor Kevin Cramer OAM  
Councillor Prue Guillaume

**Against**

Councillor Mark Davies  
Councillor Ben Goldfinch  
Councillor Tanya Davies  
Councillor Marko Malkoc  
Councillor Robert Ardill

His Worship the Mayor, Councillor Kevin Cramer OAM exercised his casting vote as Mayor to carry the motion.

**(A Rescission Motion was lodged on 30 November 2009 and this was dealt with by the Council at its Ordinary meeting held on 14 December 2009).**

**6 Proposed changes to draft Amendment No 1 to Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation)**

416 RESOLVED on the MOTION of Councillor John Thain seconded Councillor Kath Presdee

That:

1. The information contained in the report on Proposed changes to draft Amendment No 1 to Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation) be received.
2. The changes and corrections listed in this report be made to draft Amendment No.1 to Local Environmental Plan 1991 (Environmental Heritage Conservation).
3. Following the changes, draft Amendment No.1 to Local Environmental Plan 1991 (Environmental Heritage Conservation), (except for any amendments arising from the changes to the Standard Instrument) be forwarded to the Department of Planning with a request that the Minister make the plan.
4. That the comments of the Director be noted and should it be subsequently determined by the Director that further communication be required with applicants to a current native title claim then that communication be put in place and if required the matter be remitted back to Council.
5. The proposed listing of 14, 16 and 18 Pages Rd, St Marys, as heritage items be deferred to Stage 2 of the Local Plan process.

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

**For**

Councillor Kath Presdee  
Councillor John Thain  
Councillor Karen McKeown  
Councillor Kevin Crameri OAM  
Councillor Prue Guillaume

**Against**

Councillor Mark Davies  
Councillor Tanya Davies  
Councillor Marko Malkoc  
Councillor Robert Ardill  
Councillor Ben Goldfinch

His Worship the Mayor, Councillor Kevin Crameri OAM exercised his casting vote as Mayor to carry the motion.

**(A Rescission Motion was lodged on 30 November 2009 and this was dealt with by the Council at its Ordinary meeting held on 14 December 2009).**

Councillor John Thain left the meeting, the time being 9:47pm.

The following Councillors returned to the meeting, the time being 9:48pm:

Councillor Jim Aitken OAM  
Councillor Greg Davies



Councillor Kaylene Allison

**4 Results of the public exhibition of amended planning provisions for Twin Creeks estate, Luddenham**

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

That:

1. The information contained in the report on Results of the public exhibition of amended planning provisions for Twin Creeks estate, Luddenham be received.
2. The Environmentally Sensitive Land Map be modified to include land immediately surrounding the areas of land zoned E2 Environmental Conservation in the south east of the site.
3. Schedule 1 be amended into make hotel and motel accommodation, neighbourhood shops, recreation facilities (outdoor) and strata subdivision of the approved resort development permissible with consent.
4. The provisions for Twin Creeks, as amended, be reinserted into draft Penrith Local Environmental Plan 2008 before it is forwarded to the Department of Planning to be made by the Minister.

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

**For**

Councillor Mark Davies  
Councillor Ben Goldfinch  
Councillor Greg Davies  
Councillor Tanya Davies  
Councillor Kath Presdee  
Councillor Marko Malkoc  
Councillor Karen McKeown  
Councillor Robert Ardill  
Councillor Kaylene Allison  
Councillor Jim Aitken OAM  
Councillor Prue Guillaume

**Against**

Councillor Kevin Crameri OAM

Councillor Ross Fowler OAM returned to the meeting, the time being 9:48pm.

**7 2009 National General Assembly of Local Government**

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

1. That the information contained in the report on 2009 National General Assembly of Local Government be received.
2. Council support the adopted amendments to our motion as referred to in the report.

**8 Tender Reference 27-09/10 for the Manufacture, Supply and installation of Office Workstations and loose furniture for Civic Centre Extensions**

419 RESOLVED on the MOTION of Councillor Karen McKeown seconded Councillor Marko Malkoc

That:

1. The information contained in the report on Tender Reference 27-09/10 for the Manufacture, Supply and installation of Office Workstations and loose furniture for Civic Centre Extensions be received.
2. A contract for the Manufacture, Supply and installation of office workstations and associated loose furniture including dismantling and removal of existing work stations be awarded to Zenith Interiors Pty Ltd for the lump sum cost of \$546,124 (excluding GST).
3. Any savings on completion of the project be returned to the Council's Property Reserve.

**9 Policy on the Payment of Expenses and Provision of Facilities to Mayor, Deputy Mayor and Councillors**

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

That:

1. The information contained in the report on Policy on the Payment of Expenses and Provision of Facilities to Mayor, Deputy Mayor and Councillors be received
2. Council adopt the Policy on the Payment of Expenses and Provision of Facilities to Mayor, Deputy Mayor and Councillors.
3. Council forward a copy of the Council's adopted Policy on the Payment of Expenses and Provision of Facilities to Mayor, Deputy Mayor and Councillors to the DLG.

**10 Copenhagen Climate Change Conference 2009**

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

That the information contained in the report on Copenhagen Climate Change Conference 2009 be received.

**11 Summary of Investments and Banking as at 31 October 2009**

422 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Karen McKeown

That:

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

## **A CITY OF OPPORTUNITIES**

### **12 2009 Community Assistance Program Planned Component**

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

That:

1. The information contained in the report on the 2009 Community Assistance Program Planned Component be received.
2. Council approve funding the recommended projects and amounts totalling \$39,261 from the Planned Component of the 2009 Community Assistance Program as outlined in Table 2 in this report.

### **14 Contracts of Employment for Senior Staff**

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

That the information contained in the report on Contracts of Employment for Senior Staff be received.

### **15 Seniors Week 2010**

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

That:

1. The information contained in the report on Seniors Week 2010 be received.
2. Council provide Seniors Week Grants to the value of \$6,500 to 14 local community organisations to celebrate Seniors Week 2010, as outlined in the report.

### **16 Tender 14-08/09 for the Supply & Delivery of Child Care Consumables**

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

That:

1. The information contained in the report on Tender 14-08/09 for the Supply & Delivery of Child Care Consumables be received.
2. The tender received from Abcoe Distributors Pty Ltd be accepted and a unit price contract be awarded for an initial period of 1 year with an option to extend the agreement for a further 2x1 year periods subject to satisfactory performance and with provision for rise and fall.

Councillor John Thain returned to the meeting the time being 9:56pm.

### **13 Mayoral Forum - Housing Opportunities for Older People**

'427 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Jim Aitken OAM that the information contained in the report on Mayoral Forum - Housing Opportunities for Older People be received.

## **A GREEN CITY**

### **17 ICLEI World Congress and Study Tour**

Councillor Robert Ardill left the meeting, the time being 9:59pm.

Councillor Robert Ardill returned to the meeting, the time being 10:00pm.

'428 RESOLVED on the MOTION of Councillor Greg Davies seconded Councillor Karen McKeown that the information contained in the report on ICLEI World Congress and Study Tour be received.

### **18 Development Application DA09/0369 Proposed Apartments comprising**

**11 x 2 Bedroom Units at Lot 27 Sec F & Lot 28 Sec F DP 978488 (No. 7  
- 9) Lemongrove Road, Penrith. Applicant: Devcon Partners P/L;  
Owner: David John Reeves and James Ashley Aitken**

**DA09/0369**

Having previously declared a Pecuniary Interest Councillor Jim Aitken OAM left the meeting, the time being 10:01pm.

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

That:

1. The information contained in the report on Development Application No. 09/0369 Proposed Apartments comprising 11 x 2 Bedroom Units at Lot 27 Sec F & Lot 28 Sec F DP 978488 (No. 7-9) Lemongrove Road Penrith be received.
2. Development Application No.09/0369 be approved subject to the following deferred commencement condition:

**2.1 Deferred commencement condition**

A full set of revised stormwater drainage plans that correspond with the current set of architectural plans is to be submitted to Council for consideration and approval within six (6) months from the date of this decision prior to the issue of an operational consent

In addition, the revised stormwater drainage plans are to reflect the changes shown on the plan prepared by Australian Consulting Engineers, job number 09AH078, drawing number D02 (Revision C) as amended in red

3. Development Application No.09/0369 be approved subject to the following conditions of consent subject to demonstrated compliance to Council's satisfaction with the deferred commencement condition:

**3.1 Standard conditions**

A001 – Plans

A008 – Works to BCA requirements

A009 – Residential works DCP

A011 – Engineering works DCP Construction

A014 – Lot consolidation

A019 – Occupation Certificate

A038 – Lighting locations

A039 – Removal of graffiti

A046 – Construction Certificate

B001 – Demolition of existing buildings on Lots 27 and 28 Sec F DP 978488

B002 – AS for demolition and disposal to approved landfill site

B003 – Asbestos

B004 – Dust

B005 – Mud/soil

B006 – Hours of work

D001 – Erosion and sediment

D002 – Spray grass

D009 – Waste Management Plan

D010 – Appropriate disposal of waste

E01A – BCA compliance for Class 2-9

E002 – BCA issues to be addressed

- Details for the carpark ventilation are required in accordance with Clause F4.11;
- Details of the separating walls to indicate compliance with Part F5 and Specification C1.1 are required;
- Details of the construction of the store rooms under the basement stairs are required in accordance with Clause D2.8; and
- Details of the method of protecting the openings in the external walls less than 3 metres from the side boundaries are required in accordance with Clause C3.4

E009 – Annual fire safety/essential fire safety

F006 – Rainwater tank & nuisance

G003 – Section 73 Certificate

G004 – Integral Energy

H001 – Stamped plans and erection of site notice

H002 – All forms of construction

H003 – Traffic safety during construction

H011 – Engineering plans and specifications

H015 – Termites

H022 – Survey (slab level)

H024 – Glass installations AS 1288

H036 – Rainwater tank (as amended)

H037 – Safe supply of water (as amended)

H038 – Connection of rainwater tank

H039 – Rainwater tank pumps

H041 – Hours of work

I003 – Roads Act Approval 1

- (b) Provision of a heavy-duty gutter crossing 7.4m wide
- (e) Provision of a heavy-duty vehicular footway crossing 6.0m wide
- (f) Repair of damaged concrete footpath 1.2m wide in Lemongrove Road for full property frontage
- (g) Reinstatement of redundant gutter and vehicular crossings
- (h) Opening of the road reserve for the provision of services including stormwater
- (i) Placing of hoardings, containers, waste skips, etc. in the road reserve

(k) Replacement of damaged kerb and gutter for the full property frontage

- K002 – WAE
- K025 – All land required for vehicular access and parking is to be concreted or sealed with a bituminous pavement
- K027 – Car parking (13 spaces)
- L001 – General landscaping
- L002 – Landscape construction
- L003 – Report requirement (Implementation and one-year only)
- L005 – Planting of plant materials
- L006 – AS requirements
- L010 – Retain existing trees
- N001 – Section 94 Contributions for Footpath Construction
- N002 – Section 94 Contributions for Cultural Facilities
- N003 – Section 94 Contributions for Local Open Space
- N004 – Section 94 Contributions for District Open Space
- P001 – Applicants cost
- P002 – Prior to the issue of a Construction Certificate, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees
- Q01F – Notice of commencement and appointment of PCA
- Q006 – Occupation Certificate (delete after NSW Fire Brigades)

### **Special conditions**

- 3.2 An on-site detention system shall be provided to restrict stormwater discharges from the site to pre-development flows. The system is to provide for all storms up to and including the 1% AEP event. In addition, a positive covenant shall be registered on the site for the on-site detention system before an **Occupation Certificate is issued** for the development

Engineering details and supporting calculations for the on-site detention system are to be prepared by a qualified Hydrologic/Hydraulic Engineer and is to accompany the Construction Certificate application for the development in the form of an Engineering Construction Certificate

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



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

Submission of WAE plans

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

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

Registration of Positive Covenant

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

For the purposes of the positive covenant:

- “structure and works” shall mean the on-site detention system constructed on the land as set out and detailed on the plans being drawing No *[insert reference]* revision *[insert reference]* prepared by *[insert reference]* and dated *[insert reference of the last date on the plans]* approved by *[insert certifiers name]* under Development Consent No *[insert reference]* approved by Penrith City Council on *[insert reference]*, including all gutters, pipes, drains, walls, kerbs pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater on the land
- ‘the Act’ means the Conveyancing Act 1919

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

- (a) The registered proprietor will:

- Keep the structure and works clean and free from silt, rubbish, debris and other pollutants
  - Maintain and repair at the sole expense of the registered proprietors the whole of the works, including all structures, so that the on-site detention system functions in a safe and effective manner in accordance with the design intent
- (b) For the purpose of ensuring observance of the covenant, Council may by its servants or agents at any reasonable time and upon giving the person against whom the covenant is enforced not less than 2 days notice (but at any time without notice in the case of an emergency), enter the land and view the state of construction, maintenance or repair of the structure and works on the land
- (c) By written notice Council may require the registered proprietors to attend any matter and carry out such work within such time as the Council may require to ensure the proper and efficient performance of the structure and works and to that extent 88F(2)(a) of the Act is hereby agreed
- (d) Pursuant to Section 88F(3) of the Act, Council shall have the following additional powers pursuant to this covenant:
- i. In the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above, the Council or its authorised agents may enter the land with all necessary equipment and carry out any work which Council in its discretion considers reasonable to comply with the said notice referred to in (c) hereof
  - ii. Council may recover from the registered proprietor in a court of competent jurisdiction:
    - Any expense reasonable incurred by it in exercising its powers under subparagraph (a) hereof. Such expense shall include reasonable wages for Council's own employees engaged in effecting the said work, supervising the said work and administering the said work together with costs, reasonably estimated by the Council, for the use of machinery, tools and equipment in conjunction with the said work
    - Legal costs on an indemnity basis for the issue of the notices and recovery of the costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to Section 88F of the Act or providing any certificate required pursuant to Section 88G of the Act or obtaining any injunction pursuant to Section 88H of the Act
- (e) This covenant shall bind all persons who claim under the registered proprietors as stipulated in Section 88E(5) of

- the Act
- 3.3 All verge areas are to be turfed for the full width from back of kerb to property boundary at the completion of the works
- 3.4 An Engineering Construction Certificate for the provision of engineering works (on-site-detention system) is to be approved by the certifying authority. Engineering design drawings are to be prepared strictly in accordance with Penrith Development Control Plan 2006 Part 2.3 Engineering Works and the Guidelines for Engineering Works for Subdivisions and Developments Part 1 – Design
- 3.5 Basement entry ramp levels are to be raised sufficiently above existing top of kerb levels so to prevent inundation of the basement carpark in extreme rainfall events. Details are to be submitted to the Certifying Authority for approval prior to the issue of a Construction Certificate
- 3.6 Entrances/exits to all units, communal spaces and any walkways shall be well lit to clearly illuminate these areas where people are most vulnerable. All lighting shall be vandal proof
- Lighting shall be contained within the property boundary and no lights shall be projected upwards. No lighting shall be projected in such a manner that it would create glare issues for vehicles or pedestrians
- Details demonstrating compliance with the above are to be submitted to council for consideration and approval prior to the issue of a Construction Certificate
- 3.7 In order to improve surveillance, provide clear lines of sight and avoid concealment areas in the public areas, vegetation with top to bottom foliage shall be avoided along proposed and existing footpaths and along the frontages of the site. Low ground cover or high canopied vegetation is to be planted in these locations
- 3.8 All buildings shall be clearly identified with unit/house numbers clearly visible to assist visitors and emergency services
- 3.9 For crime prevention purposes:
- All walkways within the development are to be open and clear of potential entrapment spots and are to be clearly able to be viewed from building windows unhindered by vegetation or other obstructions
  - Access to common areas is to be limited to occupants and their authorised guests to ensure that the facilities do not provide excuse-making opportunities for unauthorised people entering the development
  - Entry to units is to be restricted to residents and authorised guests only
  - All rear access doors and windows are to be treated with dead locks and window locks to avoid vulnerable break and

- enter points
  - All doors to balcony/terrace areas (particularly ground floor) are to be secured and are not to reveal vulnerable break-and-enter points
  - The fencing proposed on the frontage of the property is to be maintained in perpetuity to be of see-through construction
- 3.10 Storage spaces located in the basement are to allow for filtered views to allow for passive surveillance
- 3.11 An amended landscape plan is to be provided to Council for assessment and approval prior to the issue of a Construction Certificate that:
- a) Accords with the architectural plans as amended;
  - b) Accords with the conditions of this consent pertaining to landscaping;
  - c) Demonstrates the drip line of proposed vegetation to be wholly within the property boundary of the subject proposal
- 3.12 To provide for a satisfactory, practical and accessible servicing of the site for the storage and collection of waste, the following is to be demonstrated in amended plans prior to the issue of a Construction Certificate:
- There are to be two bin storage areas in the location shown on the plans, each having an internal dimension of 3.6 metres in length and a depth of 0.8 metres. Individual bin storage areas are not supported for any of the proposed units; and
  - Details confirming the use of each bin storage area by an equal number of units such that each unit accesses the closest bin storage area
- 3.13 All carparking and manoeuvring areas associated with the subject development including driveways, access ramp grades & widths, circulating roadways, turn paths, sight distance requirements, overhead clearances for people with a disability, aisle widths, parking bay grades and parking bay dimensions (allowing for full door opening) shall be in accordance with AS 2890.1- 2004 and Council's requirements. Full details demonstrating compliance must be submitted with the Construction Certificate
- 3.14 Car washing is not to occur on site including the basement
- 3.15 The car spaces provided within the basement are to be used by residents and visitors of the residents associated with the proposed development only as nominated. The use of car spaces for other purposes including leasing or sale for uses other than as residential car spaces for the respective units of the proposed

- development is not permitted
- 3.16 The car space identified as being used for “Unit 1/Disabled parking/Visitor” is not to be dedicated as a space for Unit 1. Unit 1 is to be located in one of the spaces marked as “Visitor”. This will allow for the use of the disabled car space at need, rather than by a particular unit
- 3.17 A bike rack is to be provided at a mutually convenient location for use by all residents and visitors to the site. Details of the location of this is to be provided with the Construction Certificate
- 3.18 To provide for increased accessibility, an amended ground floor plan is to be provided for consideration and approval prior to the issue of a Construction Certificate that demonstrated a reduced width of the balcony provided for Unit 6 such that a distance of 1.2 metres between the eastern elevation and the building is provided
- 3.19 A plan demonstrating all fencing proposed for the site is to be provided to Council for consideration and approval by Council’s Heritage Advisor prior to the issue of a Construction Certificate. This is to include heights and materials used that are consistent with Penrith Development Control Plan 2006
- 3.20 To provide for improved ground floor accessibility, ramped access within the communal corridor accessed from the entrance along the eastern elevation adjoining Unit 5 is to be provided at a grade and standard to accord with relevant accessibility requirements
- 3.21 To provide for a satisfactory, practical and accessible servicing of the site, the following is to be demonstrated in amended plans prior to the issue of a Construction Certificate:
- a) The communal letterbox is to be located in front of the front boundary fencing as amended in red on the plans;
  - b) The gate to access the common area for tenants located on the front boundary is to open away from the bin storage area, contrary to that which is proposed;
  - c) The right-of-way along the south western boundary of the property leading toward Unit 4 is to be removed;
  - d) A small garden shed for units 3, 9, 4 and 5 is to be provided for storage of service equipment used for the maintenance of their respective courtyards areas; and
  - e) The common rainwater tank is to be shown on the plans as referred in the BASIX Certificate
- 3.22 One antennae is to be provided for every five units. These antennae are to accord with Penrith Development Control Plan 2006
- 3.23 Clothing and/or other materials are not to be hung in courtyard

- areas including those located on the first floor such that they are able to be seen by others
- 3.24 The location and design of the sewer line on the site is to be approved by Sydney Water prior to the issue of a Construction Certificate and any works undertaken to their requirements
- 3.25 A dilapidation report of all Council owned infrastructure fronting the development in Lemongrove Road is to be submitted to Council prior to the commencement of construction. The report is to include, but not limited to, footpaths, kerb and gutter, pavement and street trees and is to extend 10m either side of the development
- 3.26 Prior to work commencing, the structural engineer shall carry out a dilapidation survey of the adjoining dwellings and submit a copy of the survey both to Council and the property owner
- On completion of the excavation, the structural engineer shall carry out a further dilapidation survey at the same adjoining properties and submit a copy of the survey both to Council and the property owner.
- 3.27 Prior to the issue of a Construction Certificate, an inspection fee is to be paid to Penrith City Council for all drainage works that are to be undertaken within the existing drainage easement at the rear of the development. All works are to be inspected and approved by Penrith City Council's Development Engineering Unit prior to the connection of the site drainage system
- 3.28 Water storage areas must be in a common area. Where fencing is required it shall be child-proof pool style fencing including a self closing gate
- 3.29 To ensure vegetation located on adjoining properties is protected during construction, excavation is not permitted to occur in the tree protection zone. The removal of roots within 4 metres of the base of the tree trunk is not permitted.

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

**For**

Councillor Mark Davies  
Councillor Ben Goldfinch  
Councillor Greg Davies  
Councillor Tanya Davies  
Councillor Kath Presdee  
Councillor Marko Malkoc  
Councillor John Thain  
Councillor Karen McKeown  
Councillor Robert Ardill  
Councillor Ross Fowler OAM  
Councillor Kaylene Allison

**Against**

Councillor Kevin Crameri OAM  
Councillor Prue Guillaume

Councillor Jim Aitken OAM returned to the meeting, the time being 10:02pm

Councillor Mark Davies declared a Non Pecuniary Conflict of Interest – Less than Significant in Item 19 as his brother in law is a contractor for a company that the owner of this property owns. Councillor Mark Davies indicated that he would remain in the meeting for discussion on the item but abstain from voting.

Councillor Tanya Davies declared a Non Pecuniary Conflict of Interest – Less than Significant in Item 19 as her brother is a contractor for a company that the owner of this property owns. Councillor Tanya Davies indicated that she would remain in the meeting for discussion on the item but abstain from voting.

Having previously declared a interest in this item Councillor Ross Fowler OAM left the meeting, the time being 10:03pm.

Having previously declared a interest in this item Councillor Ben Goldfinch left the meeting, the time being 10:03pm.

**19 Development Application DA09/0024 Proposed Demolition of Existing Dwelling and Construction of a Detached Dual Occupancy at Lot 1 DP 23031 (No. 82) Nepean Avenue, Penrith. Applicant: N F Billyard Pty Ltd; Owner: Kristie Lyn Pate** **DA09/0024**

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430 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Jim Aitken OAM that the item be deferred to allow further information discussed by the applicant to be provided in response to the matters raised by the applicant and that a further report be provided to the Council.

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

**For**

Councillor Greg Davies  
Councillor Kath Presdee  
Councillor Marko Malkoc  
Councillor John Thain  
Councillor Karen McKeown  
Councillor Robert Ardill  
Councillor Kaylene Allison  
Councillor Jim Aitken OAM  
Councillor Kevin Crameri OAM  
Councillor Prue Guillaume

**Against**

Councillor Mark Davies  
Councillor Tanya Davies

Councillor Ross Fowler OAM returned to the meeting, the time being 10:10pm.  
Councillor Ben Goldfinch returned to the meeting, the time being 10:10pm.

**20 Development Application DA09/1107 for the Construction of a New Howell Oval Cricket Pavilion in Penrith Park at Lot 2 DP 773983 (No. 143) Station Street, Penrith. Applicant: Penrith City Council; Owner:**





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

That:

1. The information contained in the report on Development Application DA09/1107 for the Construction of a New Howell Oval Cricket Pavilion in Penrith Park at Lot 2 DP 773983 (No. 143) Station Street, Penrith be received.
2. Development Application DA09/1107 for the Construction of a New Howell Oval Cricket Pavilion in Penrith Park at Lot 2 DP 773983 (No. 143) Station Street, Penrith 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
F006	Water tank and nuisance
G002	Section 73
G004	Integral Energy
G005	Rainwater tank plumbing
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
H025	Construction of garbage rooms
H036	Rainwater tank
H037	Safe supply of water from catchment
H038	Connection of rainwater tank supply
H039	Rainwater tank pumps
H041	Hours of construction work
K027	Car parking
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 An “on-licence” liquor licence from the NSW Office of Liquor, Gaming and Racing shall be obtained prior to the commencement of the sale and consumption of alcohol from the premises
- 2.3 The club lounge is only to be used in conjunction with an organised event being held at Howell Oval where members of the public are attending other public areas of the oval

- 2.4 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, club lounge and bar areas, car park areas and office areas
  - (c) All doors and windows within the complex should be fitted with appropriate security locks and fittings to restrict access to unauthorised persons. This includes the club lounge and bar areas, kitchen, kiosk, toilets, player change rooms and the indoor training pavilion. A security swipe card system is recommended for this purpose
  - (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, including the grounds, pavilion and car park areas, 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) The car park areas should be well lit in accordance with Australian Standards. Vandal-proof lighting is recommended where practical
  - (p) Landscaping in the car park areas should be minimal to maintain clear lines of sight and reduce entrapment opportunities

- (q) 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
  - (r) Graffiti resistant paints/surfaces should be used on the external surfaces of the development to minimise opportunities for graffiti and vandalism
  - (s) Sturdy, vandal resistant materials should be used for fixtures such as lighting, seating and bins to reduce the risk for graffiti
  - (t) Any graffiti or malicious damage to the building should be reported to the Police and removed rapidly to discourage repeat incidents
- 2.5 A detailed landscape plan shall be submitted and approved prior to the issue of the Construction Certificate. The landscape plan shall include provision for screening of the proposed rainwater tanks where necessary
- 2.6 Vehicular access to and from Jamison Road and Mulgoa Road is denied for overflow event parking. All vehicular access to the overflow event parking area shall be via the track as indicated on the submitted event parking plan. In this regard, the overflow event car park shall be designed in such a way that prevents vehicle access to and from Jamison Road and Mulgoa Road, clearly directing vehicles to the access track circulating the oval
- 2.7 All formal car parking and manoeuvring shall be in accordance with AS 2890.1 (2004) and Council's requirements. Accessible car spaces shall be located closest to the entrance to the building
- 2.8 The required sight lines to pedestrians and vehicles at the Station Street driveway entrance shall not be compromised by landscaping, signage, fencing or display materials
- 2.9 In order to ensure that the "green facade" to parts of the northern, eastern and western elevations of the cricket pavilion achieves the necessary growth and vigour to reduce heat gain and visual impact of the building and 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
- 2.10 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
- 2.11 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
- 2.12 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
- 2.13 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
- 2.14 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
- 2.15 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
- 2.16 A Construction Certificate shall be issued by a Certifying Authority to include the following civil works:
- (a) Stormwater drainage
  - (b) Car park
- 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
- 2.17 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
- 2.18 Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that vehicular access, pedestrian access, car parking and manoeuvring areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2 and Penrith City Council's Development Control Plan
- 2.19 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

- 2.20 Erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised
- 2.21 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
- 2.22 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
- 2.23 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
- 2.24 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
- 2.25 The Occupation Certificate shall not be issued until all conditions of consent, except those relating to ongoing operational matters, have been completed
- 2.26 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.

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

**For**

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

**Against**

Councillor Mark Davies left the meeting, the time being 10:11pm.

Councillor Mark Davies returned to the meeting, the time being 10:12pm.

- 21 Development Application DA09/0809, DA09/0811 and DA09/0812 for the Stage 1A, 1B and 1C Residential Subdivisions in the Western Precinct of the St Marys Release Area at Lot 2 DP 1132380, (No. 1070 - 1274) The Northern Road, Llandilo. Applicant: Maryland Development Company; Owner: St Marys Land Ltd DA09/0809 DA09/0811 DA09/0812**

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

That:

1. The information contained in the report on Development Application DA09/0809, DA09/0811 and DA09/0812 for the Stage 1A, 1B and 1C Residential Subdivisions in the Western Precinct of the St Marys Release Area at Lot 2 DP 1132380, (No. 1070 - 1274) The Northern Road, Llandilo be received.
2. Development Application DA09/0809, DA09/0811 and DA09/0812 for the Stage 1A, 1B and 1C Residential Subdivisions in the Western Precinct of the St Marys Release Area at Lot 2 DP 1132380, (No. 1070 - 1274) The Northern Road, Llandilo be approved subject to the following conditions:

**Standard Conditions (*Apply to all applications*)**

- |     |      |  |
|-----|------|--|
| 2.1 | A001 | Approved plans   |
|     | A005 | Integrated approval authority's consent                                  |
|     | A042 | Asset protection zones in bush fire areas                                |
|     | A044 | Compliance with NSW Rural Fire Service GTAs                              |
|     | A046 | Obtain Construction Certificate before commencement of works             |
|     | B004 | Dust   |
|     | B005 | Mud/soil   |
|     | C003 | Uncovering relics  |
|     | D001 | Sediment and erosion control measures                                    |
|     | D002 | Spray grass  |
|     | D005 | No filling without prior approval  |
|     | D06A | Validation of fill material  |
|     | D010 | Appropriate disposal of excavated or other waste                         |
|     | D013 | Traffic noise and acoustic report  |
|     | D014 | Plant and equipment noise  |
|     | G001 | Installation of services and service clearances                          |
|     | G002 | Section 73   |
|     | G004 | Integral Energy clearance  |
|     | H01F | Stamped plans and erection of site notice                                |
|     | H002 | Provision of site facilities prior to commencement of construction works |
|     | H012 | Site classification  |
|     | H041 | Hours of construction work   |
|     | I003 | Roads Act approval   |



K001	Engineering Construction Certificate
K009	On-site detention
K035	Street signs
K036	Maintenance bond
K039	Road safety audit
K040	Line marking and signposting
K041	Road works
K042	Undergrounding of services
K043	Filling and earthworks
K044	Service lead-ins
K045	Works-as-executed plans for engineering works
K046	Inspection report
K047	Satisfactory completion of engineering works
K048	Works-as-executed plans for on-site detention, stormwater treatment and overland flow
K049	Restriction and positive covenant for on-site detention, stormwater treatment and overland flow
K050	Conditions checklist to accompany Subdivision Certificate documentation
K051	Maintenance of on-site detention and sediment and erosion control
L001	Approved landscaping plans
L002	Landscaping construction
L003	Landscaping report requirements
L005	Planting of plant material
L006	Australian Standard landscaping requirements
L007	Tree protection measures
L009	Tree preservation order
M001	Prior to subdivision work
M007	Street lighting
M008	Linen plan
M009	88B Instrument
M011	Soil testing
M013	Street trees
M014	Surveyors Certificate
P001	Costs

- P002 Fees associated with Council land
- Q001 Notice of commencement and appointment of PCA
- Q008 Subdivision Certificate

**Special Conditions (*apply to all applications unless specified*)**

- 2.2 Prior to the issue of a Construction Certificate, a targeted search of the site for the Cumberland Land Snail shall be undertaken and appropriate documentation shall be submitted and approved. This field work shall be undertaken and documented by a suitably qualified ecological consultant. If necessary, a translocation strategy prepared by the ecological consultant for the Cumberland Land Snail shall be submitted, approved and implemented prior to the issue of a Construction Certificate. Preparation of the translocation strategy shall include consultation with the Department of Environment, Climate Change and Water (DECCW)
- 2.3 The development shall be carried out in accordance with the procedures set out in the Western Precinct Contamination Management Plan and the conditions and procedures set out in the Site Audit Statements relating to the Western Precinct
- 2.4 The linen plan of subdivision is to be supported by an 88B instrument in accordance with Section 88B of the *Conveyancing Act 1919* creating a positive covenant requiring that future dwellings on Lot 1001, Lots 1015 to 1018, Lot 1031 and Lots 1057 to 1060 be designed to achieve internal noise levels which do not exceed 55dB(A) during the day (7am to 10pm) and 50dB(A) at night (10pm to 7am). Certification that dwelling designs achieve these criteria shall be certified by a suitably qualified Building Assessor. Council shall be nominated as the only authority permitted to modify, vary or rescind such positive covenant (*DA09/0809 and DA09/0811 only*)
- 2.5 A 3m high acoustic barrier wall with associated landscaping shall be provided to the western (side) boundaries of Lot 1031 and Lot 1057. Detailed plans and specifications shall be submitted and approved prior to the issue of a Construction Certificate. The fencing and associated landscaping works shall be satisfactorily completed prior to the issue of a Subdivision Certificate (*DA09/0809 and DA09/0811 only*)
- 2.6 Building and Siting Guidelines (BSGs) for Stage 1A, 1B and 1C shall be submitted and approved prior to the issue of a Subdivision Certificate. The BSGs shall provide guidance to purchasers and builders regarding site planning and design, building materials and colours, fencing and landscaping to ensure quality housing forms will be achieved throughout the estate
- 2.7 The Village Park nominated in Stage 1A DA09/0809 (Village 1 Local Park) shall:
- Be landscaped and embellished in accordance with the Village Park Concept Plan, Annexure 4A1 and 4B1 of the St Marys

- 
- Penrith Agreement (as varied by Deed of Variation dated 19 May 2009) and Volume 2 (Landscape Maintenance and Handover Plan) of the Western Precinct Plan
- Be dedicated to Council at no cost to Council. The dedication should occur in accordance with Annexure 4A1 and 4B1 of the St Marys Penrith Planning Agreement (as varied by Deed of Variation dated 19 May 2009)
  - Be maintained by the landowner (Delfin Lend Lease) for a period of 12 months prior to the handover to Council in accordance with Section 2.2(f) of the Landscape Maintenance and Handover Plan
  - Be handed over to Council at the completion of the contract maintenance period and the inspection of works by Council
- 2.8 The site is subject to the provisions of the *St Marys Penrith Planning Agreement* as amended. The applicant is reminded of the obligations under the Planning Agreement with regard to the delivery of certain infrastructure and services as part of the development of the Western Precinct. All works shall be carried out in accordance with the requirements of the *St Marys Penrith Planning Agreement* as amended
- 2.9 The site is subject to the provisions of the *St Marys Development Agreement*. The applicant is reminded of the obligations under the Development Agreement with regard to the delivery of certain infrastructure and services as part of the development of the Western Precinct. All works shall be carried out in accordance with the requirements of the *St Marys Development Agreement* as amended. The provision of affordable housing lots shall be made to the Centre for Affordable Housing in accordance with Clause 17 of the Development Agreement
- 2.10 A separate Development Application shall be lodged with Council in relation to the shade structures and public art elements proposed in the Stage 1A Village Park (*DA09/0809 only*)
- 2.11 Street trees should be located so as not to diminish the effectiveness of street lighting
- 2.12 The Village Park planting beds which are flush with the adjacent roadway shall be provided with a safety strip of turf to the rear of the kerb or alternatively the safety strip shall be mulched only with no plantings (*DA09/0809 only*)
- 2.13 A detailed landscape plan relating to the Village Park shall be submitted and approved prior to the issue of a Construction Certificate. All works relating to the Village Park shall be satisfactorily completed prior to the issue of a Subdivision Certificate (*DA09/0809 only*)
- 2.14 Decorative open-style fencing with associated landscaping shall be provided to the rear of Lots 1051 to 1057 and Lots 1099 to 1105 and to the secondary frontages of Lots 1080, 1081 and 1098. The rear and

- side fencing to these allotments shall ensure an appropriate level of privacy is afforded to future residents of these allotments. Detailed plans and specifications shall be submitted and approved prior to the issue of a Construction Certificate. The fencing and associated landscaping works shall be satisfactorily completed prior to the issue of a Subdivision Certificate (*DA09/0811 and DA09/0812 only*)
- 2.15 The linen plan of subdivision is to be supported by an 88B instrument in accordance with Section 88B of the *Conveyancing Act 1919* creating a positive covenant requiring that future dwellings on Lots 1051 to 1057, Lots 1099 to 1105 and Lots 1080, 1081 and 1098 appropriately address the entry collector road, Village Park and Village Centre respectively to ensure adequate natural surveillance and a suitable aesthetic appearance when viewed from these public areas. Council shall be nominated as the only authority permitted to modify, vary or rescind such positive covenant (*DA09/0811 and DA09/0812 only*)
- 2.16 An increased secondary setback of 3.4m shall be provided to future dwellings on Lots 1099 and 1105 to maintain vistas to the Village Park when approaching from the east. This modification shall be incorporated into the Building Envelope Plan for Stage 1C (*DA09/0812 only*)
- 2.17 The conditions imposed by the Roads and Traffic Authority in its letter dated 10 November 2009 for the development are to be satisfied prior to the issue of a Construction Certificate and/or Subdivision Certificate as relevant
- 2.18 The Northern Road temporary intersection treatment shall only serve the residential allotments contained in Stage 1A, 1B and 1C. Approval of subsequent residential allotments will be dependant on the permanent intersection treatment being operational
3. The individuals who made a submission be advised of Council's decision and of the consideration given to their concerns.

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

**For**

Councillor Mark Davies  
Councillor Ben Goldfinch  
Councillor Greg Davies  
Councillor Tanya Davies  
Councillor Kath Presdee  
Councillor Marko Malkoc  
Councillor John Thain  
Councillor Karen McKeown  
Councillor Robert Ardill  
Councillor Ross Fowler OAM  
Councillor Kaylene Allison

**Against**

Councillor Jim Aitken OAM  
Councillor Kevin Crameri OAM  
Councillor Prue Guillaume

Councillor Jim Aitken OAM left the meeting, the time being 10:14pm.

- 22 Development Application DA09/0670 Variation of Restrictive Covenant and Construction of a Single Storey Dwelling and Garage Lot 8 DP 1115288 (No. 348) Littlefields Road, Mulgoa. Applicant: Mr. J Prgomelja; Owner: Mr. J Prgomelja**

**DA09/0670**

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

That:

1. The information contained in the report on Development Application DA09/0670 Variation of Restrictive Covenant and Construction of a Single Storey Dwelling and Garage Lot 8 DP 1115288 (No. 348) Littlefields Road, Mulgoa be received.
2. The Restrictive Covenant ninthly referred to in the 88B Instrument attached to Lot 8, DP 1115288 be varied to permit the side setback of the dwelling to be 1.5m and the side setback of the garage to be 1.0m.
3. The Common Seal of Penrith City Council be affixed to the necessary documentation.
4. Development Application No. 09/0670 for the construction of a single storey dwelling and garage be approved subject to the proposed conditions of Development Consent as follows:

**Standard Conditions**

- 4.1 A001 – Approved Plans
- A008 – Works to BCA requirements
- A009 – Residential Works DCP
- A041 – Construction in Bushfire Areas (Level 2)
- A046 – Issue of Construction Certificate
- D001 – Sedimentation and Erosion Controls
- D007 – Cut and fill of land requiring Validation Certificate
- D009 – Covering Waste Storage area
- D010 – Waste disposal
- E001 – BCA compliance
- E005 – Smoke Alarms
- F006 – Watertank
- G005 – Permit for water
- H01F – Stamped plans and erection of site notice
- H002 - All forms of construction
- H011 – Engineering plans and specifications
- H013 – Further details of building components
- H014 – Slab design
- H015 – Termite protection
- H022 – Survey
- H030 - Colours
- H036 – Rainwater tank

- H037 – Safe supply from catchment
- H038 – Connection of rainwater tank supply
- H039 – Rainwater tank pumps
- H041 – Hours of work
- I003 – Roads Act approval
- K003 – Stormwater
- L001 – General landscaping
- L008 – Tree preservation order
- Q001 – Notice of commencement and appointment of PCA
- Q005 - Occupation Certificate

**Special Conditions**

- 4.2 Prior to the issue of a Construction Certificate for the development, the variation of the Restriction on the Use of Land numbered 9 in DP 1115288 shall be registered with the Land and Property Information division of the Department of Lands
- 4.3 Prior to the issue of a construction certificate, cut and fill details associated with the garage are to be provided in accordance with the Building Design and Siting Code dated 16 August 2007
- 4.4 Prior to the issue of a construction certificate, details of the driveway are to be provided demonstrating compliance with Section 2.8 of the Building Design and Siting Code dated 16 August 2007. Cut and fill details and levels will be required in this regard. The driveway width is not to exceed 3.0 metres within a horizontal distance of 10 metres from the boundary of Littlefields Road.

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

**For**

Councillor Mark Davies  
Councillor Ben Goldfinch  
Councillor Greg Davies  
Councillor Tanya Davies  
Councillor Kath Presdee  
Councillor Marko Malkoc  
Councillor John Thain  
Councillor Karen McKeown  
Councillor Robert Ardill  
Councillor Ross Fowler OAM  
Councillor Kaylene Allison  
Councillor Kevin Crameri OAM  
Councillor Prue Guillaume

**Against**

Councillor Jim Aitken OAM returned to the meeting, the time being 10:15pm.

**23 Draft Cumberland Plain Recovery Plan**

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

That:

1. The information contained in the report on Draft Cumberland Plain Recovery Plan be received.
2. Council make a submission to the Department of Environment, Climate Change and Water regarding the Draft Cumberland Plain Recovery Plan, requesting that the following concerns be addressed:
  - 2.1 Targeting any future investment associated with the management of the Cumberland Plain's threatened biodiversity to the priority conservation lands within the City should be the responsibility of the State Government
  - 2.2 Further consideration should be given by DECCW to the importance of habitat / conservation corridors
  - 2.3 Further clarification is provided regarding DECCW's expectations for local government to monitor and report on the Plans measures
  - 2.4 The Plan should adequately address the funding and resourcing implications on local government and to address the capacity restraints of local government to achieve the proposed measures.

**A LIVEABLE CITY**

Councillor Karen McKeown left the meeting, the time being 10:18pm.

Councillor Karen McKeown returned to the meeting, the time being 10:27pm.

**24 Erskine Business Park - Biodiversity Conservation Corridor - Jacfin Site**



435 RESOLVED on the MOTION of Councillor Mark Davies seconded Councillor Robert Ardill

1. That the information contained in the report on Erskine Business Park - Biodiversity Conservation Corridor - Jacfin Site be received.
2. Council write to the Minister for Planning in the following terms:
  - Outlining Council's complete disappointment in the decision made by the Minister.
  - Request an explanation on the basis of the decision, having regard to all the advice that was before the Minister at the time;
  - Council expects greater consultation in future planning decisions.
3. Council write to the Local Members of Parliament requesting details of what representations they made to the Minister for Planning prior to the decision being made by the Minister of Planning.

**25 Establishment of additional Alcohol Free Zones and Alcohol Free Areas**

436 RESOLVED on the MOTION of Councillor Jim Aitken OAM seconded Councillor Marko Malkoc

That:

1. The information contained in the report on Establishment of additional Alcohol Free Zones and Alcohol Free Areas be received.
2. Council support the establishment of Alcohol Free Zones and Alcohol Free Areas at the locations identified in this report.
3. Signage be erected to prohibit the consumption of alcohol at each of the identified locations.
4. Additional requests for Alcohol Free Zones and Alcohol Free Zones be reviewed on a quarterly or six-monthly basis if required.

**27 Assistance Towards Amateur Sportspersons and Representatives in the fields of Art, Music, Culture - Overseas and Interstate Travel**

437 RESOLVED on the MOTION of Councillor Jim Aitken OAM seconded Councillor Marko Malkoc

That the information contained in the report on Assistance Towards Amateur Sportspersons and Representatives in the fields of Art, Music, Culture - Overseas and Interstate Travel be received.

**28 Floodplain Management Program 2009/2010 - Grant Offer**

'438 RESOLVED on the MOTION of Councillor Jim Aitken OAM seconded Councillor Marko Malkoc

That the information contained in the report on Floodplain Management Program 2009/2010 - Grant Offer be received.

**29 Tender Reference 07-09/10 Construction of Lenore Drive Extension Erskine Park**

'439 RESOLVED on the MOTION of Councillor Jim Aitken OAM seconded Councillor Marko Malkoc

That:

1. The information contained in the report on Tender Reference 07-09/10 Construction of Lenore Drive Extension Erskine Park be received.
2. The tender for the construction of Lenore Drive be awarded to Burton Contractors Pty Ltd for the contract sum of \$2,319,306 including an amount of \$245,026 for the provisional items (excluding GST).

**30 Tender Reference 28-09/10 Supply & Installation of Pool Water Heating Equipment**

'440 RESOLVED on the MOTION of Councillor Jim Aitken OAM seconded Councillor Marko Malkoc

That:

1. The information contained in the report on Tender Reference 28-09/10 Supply & Installation of Pool Water Heating Equipment be received.
2. A Contract for the Supply and Installation of Pool Water Heating Equipment be awarded to Trisley's Hydraulic Services Pty Ltd for the lump sum fixed cost of \$317,940 (ex GST) including the options for increased plant capacity.

**31 Tender Reference 06-09/10 For the Provision of Graffiti Removal and Paint out services**

441 RESOLVED on the MOTION of Councillor Jim Aitken OAM seconded Councillor Marko Malkoc

That:

1. The information contained in the report on Tender Reference 06-09/10 For the Provision of Graffiti Removal and Paint out services be received.
2. The following companies be placed on the panel of approved suppliers for Graffiti Paint Out & Graffiti Removal/Cleaning, for a period of two (2) years with an option to extend for a further one (1) year period, allowing for rise and fall provisions with Jetmaster Pty Ltd (Trading as 1800 No Graffiti) as the preferred (primary) supplier and NT Barnes Pty Ltd (Trading as Wundaguard), Techni-Clean Australia Pty Ltd, and Urban Maintenance Systems Pty Ltd as the preferred secondary (back up) suppliers.

## **QUESTIONS WITHOUT NOTICE**

### **QWN 1 Leave of Absence**

Councillor Kath Presdee requested leave of absence for the period 13 December 2009 to 16 December 2009 inclusive.

## **COMMITTEE OF THE WHOLE**

442 RESOLVED on the MOTION of Councillor Marko Malkoc seconded Councillor Tanya Davies that the meeting adjourn to the Committee of the Whole to deal with the following matters, the time being 10:32pm.

### **1 Presence of the Public**

CW1 RESOLVED on the motion of Councillor John Thain seconded Councillor Marko Malkoc that the press and public be excluded from Committee of the Whole to deal with the following matters:

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### **2 Provision of Council's external legal services**

*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 City of Opportunities*

**3 Personnel Matter - Senior Staff Matters**

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

The meeting resumed at 10:45pm and the Acting General Manager reported that the Committee of the Whole met at 10:32pm on Monday 30 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, 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 Provision of Council's external legal services**

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

CW2 That:

1. The information contained in the report on Provision of Council's external legal services be received.
2. The recommendations in the report on the provision of Council's external legal services be adopted.
3. A further report be submitted to Council in the New Year on the provision of Council's external legal services.

**3 Personnel Matter - Senior Staff Matters**

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

CW3 That:

1. The information contained in the report on Personnel Matter - Senior Staff Matters be received.
2. The recommendation of the Senior Staff Recruitment/Review Committee be adopted.

**ADOPTION OF COMMITTEE OF THE WHOLE**

That the recommendation contained in the Committee of the Whole and shown as CW1, CW2 and CW3 be adopted.

There being no further business the Chairperson declared the meeting closed the time being 10:48pm.

I certify that these 47 pages are the Confirmed Minutes of the Ordinary Meeting of Penrith City Council held on 30 November 2009.

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Date